

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

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In re:

BKY No.: 09-50779

Dennis E. Hecker,

Chapter 7

Debtor.

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Randall L. Seaver, Trustee,

Adv. Case No.: 09-5042

Plaintiff,

**TRUSTEE'S RESPONSE TO  
DEBTOR'S MOTION FOR STAY  
OF ADVERSARY PROCEEDING**

vs.

Jacob Holdings of Ventanas LLC,  
Jacob Properties of Minnesota LLC,  
Wells Fargo Bank, Cornerstone Bank,  
and Chrysler Financial Services Americas, LLC,

Defendants.

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Randall L. Seaver, Trustee ("Trustee"), by and through his undersigned counsel, submits this Response to the Motion of the Debtor, Dennis E. Hecker, for Order Staying Adversary Proceeding Until Conclusion of Grand Jury Proceeding and/or any Indictments the Grand Jury Issues. The Debtor seeks a stay of this adversary proceeding until the conclusion of any criminal proceeding against him.

The Debtor's Motion should be denied for the following reasons: 1) the Debtor lacks standing to seek a stay of this adversary because he has no financial stake in the Trustee's action related to a multi-million dollar condominium located in San Jose del Cabo, Mexico (the "Real Estate"); 2) the Debtor has waived his Fifth Amendment rights with regard to the subject matter of the adversary as he answered numerous questions about the Real Estate at his 341 meeting; 3) an order staying the adversary for the alleged purpose of safeguarding the Debtor's Fifth

Amendment rights would be premature as the Debtor has yet to assert those rights; and 4) the Debtor cannot establish a legal and factual basis for staying the adversary proceeding.

### **FACTUAL BACKGROUND**

1. The Debtor filed for bankruptcy relief under Chapter 7 of the Bankruptcy Code on June 4, 2009 and obtained the benefit of the automatic stay of 11 U.S.C. §362.

2. On or about June 17, 2009, state and federal authorities searched the Debtor's business and homes in Medina and Crosslake, Minnesota pursuant to a search warrant.

3. The Debtor filed his Schedules and Statement of Financial Affairs on July 1, 2009.

4. The Debtor scheduled Wells Fargo Bank as a secured creditor with a lien of \$650,000 against "an unknown portion of Furnishings and Household Goods in the Las Ventanas Unit 3103, Los Cabos, Mexico."

5. On July 8, 2009, a creditor, Chrysler Financial Services Americas, LLC ("Chrysler"), filed a complaint against the Debtor, *Chrysler Financial Services Americas, LLC v. Hecker*, ADV No. 09-5019, alleging false pretenses, false representation, actual fraud, fraud as fiduciary, embezzlement, larceny and willful and malicious injury, and seeking an order determining that its debt to be non-dischargeable under 11 U.S.C. §523(a)(2), (4) and (6). Other creditors have filed several other adversary proceedings seeking orders for non-dischargeability of debt.

6. On July 15, 2009, the Debtor testified at the meeting of creditors conducted pursuant to 11 U.S.C. §341 and answered numerous questions about the Real Estate. *See* Transcript of 341 Meeting of Creditors at 37, 75-77, 110-111, attached as Exhibit A to the Affidavit of Matthew R. Burton (hereinafter "Burton Affidavit"), filed herewith.

7. The Debtor did not assert his Fifth Amendment privilege against self-incrimination with regard to any questions asked at the Section 341 Meeting.

8. On July 30, 2009, the U. S. Attorney served a "Subpoena to Testify Before the Grand Jury upon Denny Hecker's Automotive Group, Inc." and any other entity owned or controlled by Dennis E. Hecker.

9. On September 16, 2009, the Trustee filed this adversary complaint, alleging various causes of action seeking the following: 1) declaratory judgment that the Real Estate is bankruptcy estate property; 2) avoidance of the unperfected mortgage of Wells Fargo Bank against the Real Estate; 3) avoidance of a fraudulent transfer and a constructive fraudulent transfer of an interest in the Real Estate to Wells Fargo Bank; and 4) the turnover of the Real Estate to the Bankruptcy Estate.

10. On October 7, 2009, the Debtor filed a Motion for Order Staying Adversary Proceeding Until Conclusion of Grand Jury Proceeding and/or any Indictments the Grand Jury Issues in this adversary proceeding and in eight other adversaries: *Cornerstone Bank, et al. v. Hecker*, ADV. No.09-5035; *Carleton Financial Corporation v. Hecker*, ADV No. 09-5036; *Vision Bank v. Hecker*, ADV No. 09-5037; *Alliance Bank v. Hecker*, ADV No. 09-5038; *Gelco Corporation v. Hecker* , ADV No. 09-5039; *US Bank v. Hecker*, ADV No. 09-5040; *Hyundai Capital America v. Hecker*, ADV No. 09-5041; and *Seaver v. Hecker, Midwest Motors, LLC*, et al., ADV No. 09-5045.

## ARGUMENT

### **I. THE DEBTOR'S MOTION TO STAY THIS ADVERSARY PROCEEDING MUST BE DISMISSED AS THE DEBTOR LACKS A FINANCIAL STAKE IN THE OUTCOME AND HAS NO STANDING.**

As the Debtor has no financial stake in this adversary proceeding, he lacks standing to seek a stay of the litigation. "The question of standing generally challenges whether a party is a proper one to request the adjudication of a particular issue." *Yates v. Forker (In re Patriot Company)*, 303 B.R. 811, 815 (8<sup>th</sup> Cir. BAP 2004) citing *Nangle v. Surratt-States (In re Nangle)*, 288 B.R. 213, 216 (8<sup>th</sup> Cir. BAP 2003). The Supreme Court articulated three elements that a party must establish the requisite standing to participate in a lawsuit in an Article III court in the case, *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992):

First, the plaintiff must have suffered an "injury in fact"-an invasion of a legally protected interest which is (a) concrete and particularized, and (b) "actual or imminent, not 'conjectural' or 'hypothetical,'" "Second, there must be a causal connection between the injury and the conduct complained of-the injury has to be "fairly ... trace[able] to the challenged action of the defendant, and not ... th[e] result [of] the independent action of some third party not before the court." Third, it must be "likely," as opposed to merely "speculative," that the injury will be "redressed by a favorable decision."

*Id.*, 504 at 560-61(citations omitted); *see also, Blumeyer v. Sosne (In re Blumeyer)*, 383 B.R. 457, 461 (8<sup>th</sup> Cir. BAP 2008.)

Standing in the bankruptcy court is narrower than standing in Article III courts, particularly in an avoidance action where the trustee is the real party in interest who has the capacity to sue and be sued. *See* 11 U.S.C. §323(b). Once a trustee is appointed, the authority to bring avoidance actions regarding estate property rests solely with the trustee and the debtor lacks standing to bring such actions. *See, In re Downwood Properties/78*, 209 F. 3d 114, 116 (2<sup>nd</sup> Cir. 2000); *Vreugdenhil v. Hoekstra*, 773 F.2d 213, 215 (8<sup>th</sup> Cir. 1985). The causes of action a trustee undertakes with his avoiding powers are property of the estate and do not involve rights

unique to the debtor.

In the rare case where sufficient estate assets are recovered to provide a surplus which reverts to the debtor, the debtor may have the requisite pecuniary interest in an avoidance action. "If the debtor can show a reasonable possibility of a surplus after satisfying all debts, then the debtor has shown a pecuniary interest and has standing to object to a bankruptcy order." *Williams v. Marlar, et al. (In re Marlar)*, 252 B.R. 743, 748 (8<sup>th</sup> Cir. BAP 2000) *citing In re Schultz Mfg. Fabricating Co.*, 956 F.2d 686, 692 (7<sup>th</sup> Cir. 1992); *In re Andreuccetti*, 975 F.2d 413, 416 (7<sup>th</sup> Cir. 1992); *cf., In re Middendorf*, 381 B.R. 774, 776 (Bankr. D. Kan. 2008) (debtors with pecuniary interest in proposed settlement had standing to object).

Here, the Debtor cannot show that he has the requisite standing to bring a motion in this avoidance action. The Debtor cannot meet his burden of showing that: 1) he has suffered an injury in fact as a result of the proceeding; 2) there is a causal relationship between the injury and the Trustee's pursuit of the avoidance action; and 3) that the injury will be redressed by the stay of the adversary proceeding. *See, Blumeyer*, 383 B.R. at 461, *citing Lujan*, 504 U.S. at 560-61. The Debtor cannot show that he is or will be an aggrieved person as a result of this adversary proceeding, as he cannot establish that he will be "directly and adversely affected pecuniarily by the [outcome]". *See, Yates v. Forker*, 303 B.R. at 811 (insolvent debtor corporation's principal shareholder lacked standing to object to settlement compromise). A surplus of assets is unlikely in this case where the Debtor's schedules list assets of \$18,509,972 and liabilities of \$766,754,240. Therefore, the Debtor's Motion to Stay this adversary proceeding must be denied.

**II. THE DEBTOR'S MOTION FOR A STAY TO PRESERVE HIS FIFTH AMENDMENT RIGHTS IS PREMATURE AS THE DEBTOR HAS YET TO ASSERT HIS RIGHTS IN RESPONSE TO ANY QUESTION OR IN ANY DOCUMENT OR FILING WITH THE BANKRUPTCY COURT.**

The Fifth Amendment privilege against self-incrimination applies in the bankruptcy context. *See, Martin Trigona v. Belford (In re Martin Trigona)*, 732 F.2d 170, 175 (2d Cir.1984). Before he has the right to remain silent, a debtor must assert the Fifth Amendment, the bankruptcy court must evaluate the facts and question posed, and must determine if the debtor has a well founded fear of self incrimination. *See, In Re Morganroth*, 718 F.2d 161, 167 (6th Cir.1983). As the Court stated in *In re Connolly*, 59 B.R. 421 (Bankr. N.D. Il. 1986):

Only the [debtor] knows whether the ... disclosure sought may incriminate him[.]” *Garner v. United States*, 424 U.S. 648, 655, 96 S.Ct. 1178, 1183, 47 L.Ed.2d 370 (1976). And he bears the burden of demonstrating he has “reasonable cause to apprehend a real danger of incrimination.” *In Re Morganroth*, 718 F.2d 161, 167 (6th Cir.1983) *citing Hoffman v. United States*, 341 U.S. 479, 486, 71 S.Ct. 814, 818, 95 L.Ed. 1118 (1951). Generally, if an answer to a question, on its face, requires an admission of crime, that he supply evidence of a necessary element of a crime, or furnish a link in the chain of evidence needed to prosecute, the debtor faces a real danger of prosecution. *In Re Morganroth*, 718 F.2d at 167. . . .Before this Court can consider much less sustain Connelly's assertions, he must come forward with some minimal credible reasons why each of the many disclosures required of him to administer this case pose some real and not imaginary threat of incrimination. *See Martin-Trigona v. Gouletas*, 634 F.2d 354, 360 (7th Cir.) *cert. denied*, 449 U.S. 1025, 101 S.Ct. 593, 66 L.Ed.2d 486 (1980).

*Id.* at 432.

The Debtor has not asserted his Fifth Amendment privilege with regard to any particular question or document, in this adversary proceeding or in any other proceeding in this bankruptcy case. Any assessment of the underlying factual basis for a potential Fifth Amendment claim would be purely speculative. Therefore, the Motion to Stay the Adversary Proceeding to protect the Debtor's Fifth Amendment Rights is premature and should be denied.

**III. THE DEBTOR WAIVED HIS FIFTH AMENDMENT PRIVILEGE BY ANSWERING NUMEROUS QUESTIONS REGARDING THE REAL ESTATE AT SAN JOSE DEL CABO AT HIS SECTION 341 MEETING.**

In this voluntary Chapter 7 bankruptcy proceeding, the Debtor appeared at the §341 meeting and answered questions under oath about the Real Estate which is the subject of this adversary proceeding. Before the Debtor filed his schedules and statement of financial affairs and provided sworn testimony at the §341 meeting, law enforcement officials had executed search warrants at both properties occupied by the Debtor and the Debtor's business.

At the 341 Meeting, the Debtor answered all of the Trustee's various questions regarding the Debtor's ownership of the limited liability corporations that hold title to the Real Estate, the purchase price, the furnishings, the encumbrances against the property and an estimate of current value. At no point did the Debtor assert his Fifth Amendment privilege. *See* Transcript of 341 Meeting of Creditors at 37, 75-77, 110-111, Exhibit A to Burton Affidavit. A debtor must assert his Fifth Amendment privilege in a timely manner or be deemed to have waived the privilege by answering questions on a give topic. *See, Garner v. United States*, 424 U.S. 648, 654-55 (1976). Now that the Debtor has testified freely about the facts surrounding the acquisition and use of the Real Estate, he cannot now assert the Fifth Amendment privilege with regard to this asset. *See, Krasny v. Gi Yeong Nam (In re Nam)*, 245 B.R. 216, 231 (Bankr. E.D. Pa. 2000).

**IV. THE DEBTOR HAS NOT ESTABLISHED A LEGAL OR FACTUAL BASIS FOR STAYING THIS ADVERSARY PROCEEDING.**

The Debtor complains that he is faced with the unfair choice of defending himself in this adversary proceeding or exercising his Fifth Amendment right to remain silent, whereupon the Bankruptcy Court can draw negative inferences from his failure to testify. In the absence of a specific question or line of inquiry directed to the Debtor, this assertion is based on pure speculation and is not a basis to stay the litigation in the adversary complaint.

A. Having Voluntarily Filed for Bankruptcy Relief, the Debtor May Have to Choose Between the Right to Remain Silent and a Discharge of Debt

As the Debtor voluntarily filed this bankruptcy case seeking the equitable relief of discharge of debt, he may be compelled to choose between asserting his rights under the Fifth Amendment and remaining silent, or alternatively, the discharge of a debt. The discharge of debt and "the relief of a fresh start is intended to benefit the honest debtor." *In re Lederman*, 140 B.R. at 53, citing *State Bank of India v. Chachra (In re Chachra)*, 138 B.R. 397, 401 (Bankr. S.D.N.Y. 1992) (complete disclosure is a condition precedent to grant of discharge). "A fact finder in a civil proceeding may to draw negative inferences from a defendant's invocation of the Fifth Amendment privilege." *National Acceptance Corp. v. Bathalter*, 705 F.2d 924, 929-30 (7<sup>th</sup> Cir. 1983). "[A]n individual debtor in a bankruptcy case, who is also a target of criminal investigation, might be required to relinquish a fifth amendment privilege against self-incrimination in order to avoid losing a discharge in bankruptcy." *Amsave Credit Corporation v. Marceca (In re Marceca)*, 131 B.R. 774, 778 (Bankr. S.D.N.Y. 1991); see also, *In re Vrusho*, 321 B.R. 607, 612 (Bankr. D. N. H. 2005); *Raymond James & Assoc. v. Metzgar (In re Metzgar)*, 127 B.R. 708, 711 (Bankr. M.D. Fla. 1991).

[A] debtor cannot enjoy the benefits of the bankruptcy process while avoiding its burdens. Any other approach would produce an unlevel playing field tilted in the debtor's favor. . . . The debtor cannot use the bankruptcy court to broaden the benefits afforded to an accused by the Fifth Amendment. To do so would allow the debtor to use the Fifth Amendment as a shield, while impermissibly using the Bankruptcy Code as a sword with which to take an unfair advantage of creditors. *Piperi v. Gutierrey (In re Piperi)*, 137 B.R. 644, 647 (Bankr. S.D. Tex. 1991).

*In re Lederman*, 140 B.R. at 53. From the plain statutory language, the *Lederman* Court inferred that, absent a grant of immunity, the Code does not intend to protect a debtor's right or opportunity to the discharge a particular debt. The *Lederman* Court stated further,



Moreover, in §727(a)(6)(B), Congress specifically preserved a debtor's rights to raise the privilege against self-incrimination, absent a grant of immunity, with respect to oral examination and testimony without prejudice to the right to a discharge. The lack of a similar provision in §523 leads to the inescapable conclusion that none was intended.

Moreover, in §727(a)(6)(B) Congress specifically preserved a debtor's rights to raise the privilege against self-incrimination, absent a grant of immunity, with respect to oral examination and testimony without prejudice to the right to a discharge. The lack of a similar provision in §523 leads to the inescapable conclusion that none was intended.

*Id.* at 53. Although an individual has a right against self-incrimination, a debtor may have to choose between the constitutional right to remain silent and the equitable relief of discharge of debt.

B. There Is No Constitutional Mandate That a Bankruptcy Court Stay an Adversary Proceeding.

In his Motion for a Protective Order, the Debtor seeks a stay of this adversary proceeding until any criminal proceeding is concluded, which may take years. The Debtor cites several non-bankruptcy cases where a defendant in a civil action sought a stay of litigation while a parallel criminal investigation or litigation was proceeding. *See, e.g., Doe v. City of Chicago*, 360 F. Supp. 880 (N.D. Ill 2005); *Bridgeport Harbour Place I, LLC v. Ganim*, 269 F. Supp. 2d 6 (D. Conn. 2002). In some cases, courts have concluded that the ongoing civil litigation could compromise the defendant's ability to assert and obtain protection under the Fifth Amendment privilege in the federal matter. Similarly, governmental bodies pursuing the criminal matters may argue that witness testimony and evidence may be compromised due to the differing procedural standards in civil and criminal proceedings. These cases are of little relevance to the issue before this Court. The issue here is whether an individual who voluntarily seeks bankruptcy relief can prevent the trustee from fulfilling his duty under 11 U.S.C. §704 to pursue avoidance actions and collect assets for distribution to creditors. In this case, the Debtor has

come forward with no case law which supports his request that this adversary be stayed because of the possibility that he might assert his Fifth Amendment rights at some future time.

There are few bankruptcy court cases where a debtor obtains a stay of discovery in bankruptcy litigation during the pendency of a criminal investigation. Although bankruptcy courts have the equitable and statutory power to stay litigation under 11 U.S.C. §105, they are hesitant to do so. *See, Hale, et al. v. Carlson (In re Hale)*, 980 F. 2d 1176, 1179 (8<sup>th</sup> Cir. 1992); *Carroll, et al. v. Unicom AP Chemical Corp., et al. (In re MGL Corporation)*, 262 B.R. 324, 328 (Bankr. E.D. Pa. 2001) (stay denied as it would impede trustee's ability to recover assets for unsecured creditors); *accord, Kozyak v. Poindexter, et al. (In re Financial Federated Title & Trust, Inc.)*, 252 B.R. 834, 839 (Bankr. S.D. Fla. 2000); *see also, Amsave Credit Corporation v. Marceca (In re Marceca)*, 131 B.R. 774, 778 (Bankr. S.D.N.Y. 1991) ("stay of pending civil action until the outcome of related criminal proceeding is an extraordinary remedy").

There is a critical difference between a defendant who seeks a stay of discovery in non-bankruptcy civil cases and the Debtor here who seeks a stay of the trustee's avoidance action. The defendants in the non-bankruptcy cases cited in the Debtor's Memorandum were sued in civil proceedings and were compelled to testify and produce documents under the applicable rules of civil procedure, which offer less protection than the rules of criminal procedure in the parallel criminal investigation. The Debtor here, like the debtors in the *Hale* and *Marceca* cases, **voluntarily** filed for bankruptcy, seeking the protection of the automatic stay and the equitable relief of discharge of debt.

Section §704(a) of the Bankruptcy Code requires the Trustee to collect and reduce to money property of the estate, and to close the estate as expeditiously as is compatible with the best interests of all parties to investigate the financial affairs of the debtors, and, if advisable, to

oppose the discharge of the debtor. 11 U.S.C. §704(a)(1), (4), and (6). The Debtor claims that the Trustee "faces no particular injury from delay" from "dissipation of assets or an attempt to gain an unfair advantage." Debtor's Memorandum at 13. A stay of this adversary proceeding would prohibit the Trustee from avoiding third-party claims against a valuable asset which should be liquidated for the benefit of creditors. Delay increases the carrying cost of the Real Estate, which the Bankruptcy Estate must bear, even though the Debtor has no pecuniary interest in the Real Estate. It is critical that the Trustee pursue avoidance actions as quickly as possible to maximize the value of recoveries for creditors. *See, Carroll, et al. v. Unicom AP Chemical Corp. et al. (In re MGL Corporation)*, 262 B.R. 324, 328 (Bankr. E.D. Pa. 2001) (stay would hinder trustee's expeditious prosecution of claims and would hinder recovery for unsecured creditors); *accord, Kozyak v. Poindexter, et al. (In re Financial Federated Title & Trust, Inc.)*, 252 B.R. 834, 839 (Bankr. S.D. Fla. 2000).

Counsel for the Debtor cites only one case where a debtor obtained a stay of civil litigation during the pendency of a criminal investigation, *Amsave Credit Corporation v. Marceca (In re Marceca)*, 131 B.R. 774 (Bankr. S.D.N.Y. 1991). In the *Marceca* case, on the last day to file objections to discharge, a creditor filed an adversary complaint objecting to discharge and dischargeability under 11 U.S.C. §§523 and 727(a)(2). The court determined that the adversary complaint failed to plead fraud and concealment with sufficient particularity. The creditor sought leave to amend the complaint. The debtor sought a stay of the adversary proceeding during the pendency of a criminal investigation based on the same facts, to protect his constitutional privilege against self-incrimination. While noting that "there is no constitutional mandate for a stay of civil proceedings", the *Marceca* Court ordered a stay of the civil litigation until the earlier of the conclusion of the U.S. Attorney's investigation or an

indictment, or four months time. *Id.* at 778. The *Marceca* court determined that a stay for a maximum of four months would not prejudice the creditor, as the creditor would be allowed to amend its complaint to cure its defective complaint, while obviating the debtor's immediate need to choose between asserting his Fifth Amendment privilege and putting on a full defense in the adversary proceeding. *Id.*

The Debtor's assertion that the interest of the Court and public will be advanced by a stay of the litigation is nonsensical. Sections 521 and 704 of the Bankruptcy Code set forth, with specificity, the duties of the Debtor and of the Trustee, so as to serve the interests of the Court and the public. As the Court stated in the *Lederman* case, "distribution and discharge are at the heart of the bankruptcy process, and a debtor cannot enjoy the benefits of the process while avoiding its burdens." *In re Lederman*, 140 B.R. at 53. The granting of a stay of this avoidance action would contravene the interests of the creditors and the public as established by these statutes.

### CONCLUSION

For the reasons stated above, Randall L. Seaver, Trustee, respectfully requests that the Court deny the Debtor's Motion for Stay of this Adversary Proceeding.

**LEONARD, O'BRIEN  
SPENCER, GALE & SAYRE, LTD.**

/e/ Matthew R. Burton

Dated: October 16, 2009

By \_\_\_\_\_  
Matthew R. Burton, #210018  
Attorneys for Randall L. Seaver, Trustee  
100 South Fifth Street, Suite 2500  
Minneapolis, Minnesota 55402-1234  
(612) 332-1030

410704

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

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In re:

BKY No.: 09-50779

Dennis E. Hecker,

Chapter 7

Debtor.

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Randall L. Seaver, Trustee,

Adv. Case No.: 09-5042

Plaintiff,

vs.

**AFFIDAVIT OF MATTHEW R. BURTON**

Jacob Holdings of Ventanas LLC,  
Jacob Properties of Minnesota LLC,  
Wells Fargo Bank, Cornerstone Bank,  
and Chrysler Financial Services Americas, LLC,

Defendants.

---

STATE OF MINNESOTA    )  
  ) ss.  
COUNTY OF HENNEPIN    )

Your Affiant, being first duly sworn, deposes and states as follows:

1. I am counsel for Randall L. Seaver, the Chapter 7 Trustee herein.
2. Attached hereto as Exhibit A is a true and correct copy of the transcript of the 341

Meeting of Creditors on July 15, 2009 in the case, Dennis E. Hecker, BKY No. 09-50779.

**FURTHER YOUR AFFIANT SAYETH NOT.**

Dated: October 16, 2009

/e/ Matthew R. Burton

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Matthew R. Burton

UNITED STATES BANKRUPTCY COURT

DISTRICT OF MINNESOTA

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In re:

Case No. 09-50779

DENNIS E. HECKER,

Debtor.  
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341 Meeting of Creditors held in the  
above-entitled matter on the 15th day of July, 2009,  
at ten o'clock in the morning, before Julie A. Rixe,  
court reporter and notary public, at the United  
States Courthouse, Room 1017, 300 South Fourth Street,  
Minneapolis, Minnesota.

\* \* \*

**EXHIBIT A**

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<p>1 APPEARANCES:</p> <p>2 RANDALL L. SEAVER, Trustee,</p> <p>3 12400 Portland Avenue South, Suite 132,</p> <p>4 Burnsville, Minnesota 55337, appeared as</p> <p>5 Trustee.</p> <p>6 CLINTON E. CUTLER, Attorney at Law,</p> <p>7 Fredrikson &amp; Byron, P.A., 200 South Sixth Street,</p> <p>8 Suite 4000, Minneapolis, Minnesota 55402-1425,</p> <p>9 appeared for and on behalf of the Debtor.</p> <p>10 WILLIAM F. MOHRMAN, Attorney at Law,</p> <p>11 Mohrman &amp; Kaardal, P.A., 4100 Multifoods Tower,</p> <p>12 33 South Sixth Street, Minneapolis, Minnesota</p> <p>13 55402, appeared for and on behalf of the Debtor.</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22 WHEREUPON, the following proceedings</p> <p>23 were duly had and entered of record, to wit:</p> <p>24</p> <p>25</p>	<p>1 THE TRUSTEE: Good morning, folks. My</p> <p>2 name is Randy Seaver. I'm the Chapter 7 panel</p> <p>3 trustee appointed by the United States Department</p> <p>4 of Justice to administer the Denny Hecker</p> <p>5 bankruptcy case.</p> <p>6 This questioning is tape-recorded, and</p> <p>7 the recording goes next door to the Office of the</p> <p>8 U.S. Trustee. Anyone can get a copy, I believe,</p> <p>9 from the Office of the U.S. Trustee. There's</p> <p>10 some small cost.</p> <p>11 And I'm also having it -- a court</p> <p>12 reporter taking down the testimony, and her name</p> <p>13 is Julie Rixe and you can get a card from her.</p> <p>14 She'll transcribe it and you can buy a copy from</p> <p>15 her, which would be more expensive than just</p> <p>16 getting the disc. But those are options for</p> <p>17 getting this.</p> <p>18 Would you raise your right hand,</p> <p>19 please, Mr. Hecker.</p> <p>20 DENNIS E. HECKER,</p> <p>21 after having been first duly sworn, was</p> <p>22 examined and testified on his oath as follows:</p> <p>23 EXAMINATION</p> <p>24 BY THE TRUSTEE:</p> <p>25 Q And state your name for the record, please.</p>										
Page 3	Page 5										
<p>1 INDEX</p> <table><tr><th data-bbox="233 1108 714 1144">WITNESS</th><th data-bbox="714 1108 857 1144">PAGE</th></tr><tr><td data-bbox="233 1144 714 1180">3 DENNIS E. HECKER</td><td data-bbox="714 1144 857 1180"></td></tr><tr><td data-bbox="233 1180 714 1215">Examination by the Trustee</td><td data-bbox="714 1180 857 1215">4, 123, 133</td></tr><tr><td data-bbox="233 1215 714 1251">4 Examination by Mr. Clifton</td><td data-bbox="714 1215 857 1251">94</td></tr><tr><td data-bbox="233 1251 714 1287">Examination by Mr. Cutler</td><td data-bbox="714 1251 857 1287">130</td></tr></table> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	WITNESS	PAGE	3 DENNIS E. HECKER		Examination by the Trustee	4, 123, 133	4 Examination by Mr. Clifton	94	Examination by Mr. Cutler	130	<p>1 A Dennis Hecker.</p> <p>2 Q And where do you live, Mr. Hecker?</p> <p>3 A 17600 Cross Avenue, Cross Lake, Minnesota.</p> <p>4 THE TRUSTEE: Here, I'm going to</p> <p>5 circulate a signature sheet, too, and I'd</p> <p>6 appreciate it if folks would sign in and give me</p> <p>7 a phone number.</p> <p>8 And, also, before I start this</p> <p>9 questioning, you'll see my contact information on</p> <p>10 that sheet that's going around. If anybody has</p> <p>11 any information they believe would be of</p> <p>12 assistance to me in administering this case,</p> <p>13 please feel free to contact me using any of that</p> <p>14 contact information.</p> <p>15 BY THE TRUSTEE:</p> <p>16 Q Mr. Hecker, how long have you lived at the Cross</p> <p>17 Lake address that you just gave?</p> <p>18 A Approximately 45 days.</p> <p>19 Q Which would be what day; what day did you move in</p> <p>20 there?</p> <p>21 A I've owned it for three years. I don't recall</p> <p>22 exactly which day.</p> <p>23 Q Well, you filed on June 4, just to give you some</p> <p>24 perspective. Did you move in before that or</p> <p>25 after that?</p>
WITNESS	PAGE										
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<p>1 A I believe, to the best of my knowledge, before, 2 shortly after. 3 Q A couple of days before? 4 A I don't really remember. 5 THE TRUSTEE: Okay. Say, let me also 6 state this. Since this case has been filed, my 7 attorneys, who are representing me in this case, 8 and I have had almost daily conversations or 9 communications through e-mail or telephone with 10 Mr. Hecker's attorney, Mr. Cutler's office. I've 11 requested various information and we have 12 received substantial information through 13 Mr. Cutler's office. So a lot of the information 14 has been exchanged prior to this meeting today. 15 And I have reviewed the driver's 16 license, Social Security proof from Mr. Hecker 17 and they're appropriate. 18 BY THE TRUSTEE: 19 Q Mr. Hecker, have you read the bankruptcy 20 information sheet provided by the U.S. Trustee? 21 A Yes, I have. 22 Q Did you sign the petitions, schedules, statements 23 and related documents that you filed with the 24 Court and is the signature on those yours? 25 A Yes.</p>	<p>1 MR. CUTLER: Those are the only 2 transfers or the only -- Oh, there was one 3 additional change. The Schedule B reflects a 4 tractor, a lawn tractor that was taken off of an 5 insurance schedule. There's actually a different 6 tractor and that's been, I think, disclosed to 7 Mr. Radde, and he should be aware of the actual 8 tractor that they have. 9 BY TRUSTEE: 10 Q All right. Is that a larger tractor than the one 11 that's in the schedules? 12 A Yes. 13 Q And there are a lot of attachments for it, too, 14 right? 15 A Yes. 16 Q All right. The things that Mr. Cutler has told 17 me, Mr. Hecker, is everything else in the 18 schedules true and correct, other than what you 19 just said? 20 A To the best of my knowledge. 21 Q Okay. Are there any other errors or omissions to 22 bring to my or the Court's attention? 23 A Not that I'm aware of. 24 Q Did you list all of your assets in the schedules, 25 other than what Mr. Cutler just added?</p>
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<p>1 Q Did you read those documents before you signed 2 them? 3 A Yes. 4 Q Are you personally familiar with the information 5 contained in those documents? 6 A Yes. 7 Q To the best of your knowledge, is that 8 information true and correct? 9 A Yes. 10 MR. CUTLER: Mr. Trustee, there are 11 some corrections and additions. And we'll 12 probably file amendments on this, but we have -- 13 as I disclosed to you this morning, we have 14 discovered some additional bank accounts and have 15 given you the bank account forms, the most recent 16 statements for those. 17 In connection with the turnover of the 18 jewelry and the watches yesterday, there was some 19 additional watches that were discovered by 20 Mr. Hecker and have been turned over. 21 And then there's an error on Schedule C 22 with respect to the homestead exemption, and 23 we'll amend that. It has a zero dollar amount 24 listed and it should be listed up to \$300,000. 25 THE TRUSTEE: Okay.</p>	<p>1 A Yes. 2 Q Did you list all of your creditors in the 3 schedules? 4 A To the best of my knowledge. 5 Q Have you ever filed bankruptcy before? 6 A No. 7 Q Do you have a domestic support obligation? 8 A Yes. 9 Q You pay spousal support? 10 A Yes. 11 Q To whom? 12 A Sandra Hecker. 13 Q And that's in the schedules? 14 A Yes. 15 Q Are you currently employed, Mr. Hecker? 16 A No. 17 Q During the 90 days prior to your bankruptcy 18 filing, did you lose any money by execution on a 19 judgment or through a garnishment or otherwise? 20 A To the best of my knowledge, I'm not sure. 21 Q It would be in the schedules or the Statement of 22 Financial Affairs if you did; is that right? 23 MR. CUTLER: Yes, it would be. 24 BY THE TRUSTEE: 25 Q Okay. Is that true, Mr. Hecker?</p>



<p style="text-align: right;">Page 10</p> <p>1 A Yes.</p> <p>2 Q All right. Did you voluntarily pay over \$5,000</p> <p>3 to any single unsecured creditor in the 90 days</p> <p>4 prior to filing?</p> <p>5 MR. CUTLER: Yes.</p> <p>6 THE DEBTOR: Yes.</p> <p>7 BY THE TRUSTEE:</p> <p>8 Q And are all of those transfers disclosed in your</p> <p>9 Statement of Financial Affairs?</p> <p>10 A To the best of my knowledge.</p> <p>11 Q Did you transfer any property or interest in</p> <p>12 property to anyone in the two years before you</p> <p>13 filed bankruptcy?</p> <p>14 MR. CUTLER: Well, as reflected in the</p> <p>15 Statement of Financial Affairs?</p> <p>16 THE TRUSTEE: Let me rephrase.</p> <p>17 MR. CUTLER: Anything other than what's</p> <p>18 reflected in the Statement of Financial Affairs,</p> <p>19 Mr. Hecker?</p> <p>20 THE DEBTOR: Not that I'm aware of.</p> <p>21 BY THE TRUSTEE:</p> <p>22 Q So any transfers that you made in the two years</p> <p>23 prior to filing are disclosed in the Statement of</p> <p>24 Financial Affairs?</p> <p>25 A To the best of my knowledge, yes.</p>	<p style="text-align: right;">Page 12</p> <p>1 A I was in the automobile business and</p> <p>2 automobile-related services and had some other</p> <p>3 business interests in other kinds of businesses.</p> <p>4 Q Fair to say that it was a fairly complex business</p> <p>5 that you were involved in?</p> <p>6 A Yes.</p> <p>7 Q Okay. And in the schedules and Statement of</p> <p>8 Financial Affairs, there's at least some</p> <p>9 indication of these businesses, correct?</p> <p>10 A Yes.</p> <p>11 Q Okay. Mr. Hecker, you have turned over some</p> <p>12 jewelry in response to my demand, correct?</p> <p>13 A Yes.</p> <p>14 Q And I understand that there was some additional</p> <p>15 items that were turned over. By additional I</p> <p>16 mean in addition to what you actually had listed</p> <p>17 in your schedules. Is that correct?</p> <p>18 A Yes.</p> <p>19 Q Let me just give you a copy of this complaint.</p> <p>20 This is the complaint that I filed earlier this</p> <p>21 week seeking turn-over of jewelry. And if you</p> <p>22 look at the Exhibits A and B here, Mr. Hecker,</p> <p>23 Exhibit A is what was in your schedules.</p> <p>24 Exhibit B came from the insurance policies. And</p> <p>25 I'd like you to look at Exhibit B and tell me --</p>
<p style="text-align: right;">Page 11</p> <p>1 Q Okay. Are you self-employed or engaged in any</p> <p>2 business ventures?</p> <p>3 A I started a new venture called New Dimension</p> <p>4 Consultants.</p> <p>5 Q Which is what?</p> <p>6 A A consultant for automobile dealers.</p> <p>7 Q Did you start that before you filed bankruptcy?</p> <p>8 A No, I didn't.</p> <p>9 Q Just describe generally for the record what your</p> <p>10 business was at the time you filed bankruptcy.</p> <p>11 MR. MOHRMAN: Which business are you</p> <p>12 referring to?</p> <p>13 THE TRUSTEE: Anything he was engaged</p> <p>14 in.</p> <p>15 And who are you, sir?</p> <p>16 MR. MOHRMAN: My name is William</p> <p>17 Mohrman.</p> <p>18 THE TRUSTEE: And you're an attorney</p> <p>19 representing Mr. Hecker?</p> <p>20 MR. MOHRMAN: I am.</p> <p>21 BY THE TRUSTEE:</p> <p>22 Q All right. I just want a general description on</p> <p>23 the record of what business you personally were</p> <p>24 engaged in, Mr. Hecker, when you filed</p> <p>25 bankruptcy.</p>	<p style="text-align: right;">Page 13</p> <p>1 There are two pages to Exhibit B. Tell me if</p> <p>2 there are any items on there that were not turned</p> <p>3 over yesterday.</p> <p>4 A The first item is a Gents nugget ring. I have no</p> <p>5 idea where that is.</p> <p>6 Q Okay.</p> <p>7 A The schedule should reflect that it's maybe three</p> <p>8 to five years old.</p> <p>9 MR. CUTLER: You're referring to the</p> <p>10 insurance schedule?</p> <p>11 THE DEBTOR: Yes.</p> <p>12 MR. CUTLER: Exhibit B?</p> <p>13 THE DEBTOR: Yes. And the link</p> <p>14 bracelet, I have no idea.</p> <p>15 BY MR. SEAVER:</p> <p>16 Q When you say you have no idea, do you think you</p> <p>17 lost it, do you think it was stolen? I mean,</p> <p>18 what do you think about these things?</p> <p>19 A The first one might have been my father's ring</p> <p>20 when he died. I don't recall. I don't recall</p> <p>21 the ring.</p> <p>22 Q Okay.</p> <p>23 A The bracelet, I don't recall the bracelet. It</p> <p>24 may be on there as Gents. I'm not sure that my</p> <p>25 wife didn't have it or where it went. I don't</p>

<p style="text-align: right;">Page 14</p> <p>1 know.</p> <p>2 Q Okay. So those two items you don't know their</p> <p>3 whereabouts?</p> <p>4 A Correct.</p> <p>5 Q All right.</p> <p>6 MR. CUTLER: Mr. Seaver, could I ask a</p> <p>7 question?</p> <p>8 THE TRUSTEE: Sure.</p> <p>9 MR. CUTLER: Mr. Hecker, what efforts</p> <p>10 have you made to locate jewelry?</p> <p>11 THE DEBTOR: I exhausted, to the best</p> <p>12 of my knowledge, every potential place I think it</p> <p>13 would be.</p> <p>14 BY THE TRUSTEE:</p> <p>15 Q Which is where?</p> <p>16 A Well, I've looked in -- I found items that were</p> <p>17 missing when I was moving some of my personal</p> <p>18 things to Cross Lake that were -- I didn't really</p> <p>19 use a lot of safes, so I had it -- And those</p> <p>20 items were the most expensive, I didn't wear, so</p> <p>21 they were in some clothes.</p> <p>22 Q Okay. So continuing on with this Exhibit B to</p> <p>23 the complaint, are there any other items here, on</p> <p>24 Exhibit B, that you have not been able to locate?</p> <p>25 A I don't believe so.</p>	<p style="text-align: right;">Page 16</p> <p>1 Q -- there's a dock system and how many boat lifts?</p> <p>2 A There was four jetski lifts and two boat spots.</p> <p>3 Q Okay. And those are all property of Dennis</p> <p>4 Hecker?</p> <p>5 A The two boats are -- Are you talking about the</p> <p>6 docks?</p> <p>7 Q I'm not talking about the boats yet. I'm talking</p> <p>8 about the docks, boat lifts, canopies.</p> <p>9 A I believe they're part of the homestead.</p> <p>10 Q Are they property of Dennis Hecker?</p> <p>11 MR. CUTLER: Do you own them as opposed</p> <p>12 to one of your companies?</p> <p>13 (Discussion held off the record between</p> <p>14 the debtor and his attorney.)</p> <p>15 THE DEBTOR: Yes.</p> <p>16 BY THE TRUSTEE:</p> <p>17 Q You own them?</p> <p>18 A Yes.</p> <p>19 Q Dennis Hecker owns them?</p> <p>20 A Yes.</p> <p>21 Q All right. Then there are two other guest houses</p> <p>22 there --</p> <p>23 A Yes.</p> <p>24 Q -- correct? And those guest houses, each have</p> <p>25 docks in front of them?</p>
<p style="text-align: right;">Page 15</p> <p>1 Q Okay. And did you locate -- when you looked</p> <p>2 further, did you locate any additional watches or</p> <p>3 jewelry items by --</p> <p>4 A I believe there were some items we turned in</p> <p>5 yesterday that weren't on the schedule.</p> <p>6 Q That weren't on the schedule and weren't on this</p> <p>7 insurance schedule --</p> <p>8 A That's right.</p> <p>9 Q -- either? Okay.</p> <p>10 Mr. Hecker, at the Cross Lake home</p> <p>11 there is -- there are a number of boat lifts and</p> <p>12 docks, dock and sections. Are those your</p> <p>13 property?</p> <p>14 A Part of the property, yes.</p> <p>15 Q What do you mean by that?</p> <p>16 A In the records it shows that there's three</p> <p>17 separate addresses there.</p> <p>18 Q Okay.</p> <p>19 A And each address has its own dock.</p> <p>20 Q Okay. So what ones are yours?</p> <p>21 A When you say yours, mine personally or --</p> <p>22 Q I mean Denny Hecker personally, yes.</p> <p>23 A The one where my residence is.</p> <p>24 Q In front of the large structure there --</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 17</p> <p>1 A Yes, they do.</p> <p>2 Q And they have boat lifts also?</p> <p>3 A One of them doesn't.</p> <p>4 Q Okay. The two dock systems for those guest</p> <p>5 houses, who owns those?</p> <p>6 A The LLC that owns the property.</p> <p>7 Q Okay. Did the LLC purchase those docks?</p> <p>8 A To the best of my knowledge.</p> <p>9 Q And the LLC purchased the boat lift too?</p> <p>10 A I believe so.</p> <p>11 Q Okay. Where would those items have been</p> <p>12 purchased?</p> <p>13 A The docks?</p> <p>14 Q Yes.</p> <p>15 A I have no idea.</p> <p>16 Q Would --</p> <p>17 A The docks at the main home are five years old or</p> <p>18 six years old. I wouldn't recall. The other</p> <p>19 ones are wooden docks. I'm not sure where they</p> <p>20 came from.</p> <p>21 Q All right. How many watch winders do you have?</p> <p>22 A To the best of my ability, one.</p> <p>23 Q Okay. And where is that located, sir?</p> <p>24 A It's in 1492 Medina.</p> <p>25 Q Okay. How much did you pay for that when you</p>

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<p>1 bought it?</p> <p>2 A I have no idea.</p> <p>3 Q Over \$10,000?</p> <p>4 A I have no idea.</p> <p>5 Q Okay. In Medina, at the North Bridge Drive</p> <p>6 address, who resides there?</p> <p>7 A Christi Rowan.</p> <p>8 Q And what's your relationship with Ms. Rowan?</p> <p>9 A We have a personal relationship.</p> <p>10 Q How long have you had that personal relationship?</p> <p>11 A On and off approximately a year.</p> <p>12 Q About a year, you think?</p> <p>13 A Yes.</p> <p>14 Q So June of 2008, roughly?</p> <p>15 A Approximately.</p> <p>16 Q Okay. Is she employed?</p> <p>17 A She has her own photography business.</p> <p>18 Q Do you know how much money she makes at that</p> <p>19 business?</p> <p>20 A I have no idea.</p> <p>21 Q Okay. Have you ever deposited any money into any</p> <p>22 bank accounts held in her name?</p> <p>23 A I haven't personally deposited any money into her</p> <p>24 bank accounts.</p> <p>25 Q Have you given any money to anyone to deposit</p>	<p>1 A Yes.</p> <p>2 Q Do you have any idea on percentages how much</p> <p>3 would be Denny Hecker and how much would --</p> <p>4 A I don't recall.</p> <p>5 Q Okay. The values -- I'm looking at your</p> <p>6 schedules now. And the values for the real</p> <p>7 property in Cross Lake, how did you come to the</p> <p>8 conclusion that those were the appropriate</p> <p>9 values; did someone give you an opinion?</p> <p>10 A Yes, they did.</p> <p>11 Q And who was that?</p> <p>12 A A real estate company in Cross Lake.</p> <p>13 Q Is that Bruce Larson's company?</p> <p>14 A Yes.</p> <p>15 Q And did they give you a written opinion?</p> <p>16 A Yes, they did.</p> <p>17 THE TRUSTEE: All right. Mr. Cutler,</p> <p>18 could you give me send me a copy of that?</p> <p>19 MR. CUTLER: I have it.</p> <p>20 THE TRUSTEE: Oh, okay, great.</p> <p>21 MR. CUTLER: I'll give it to you right</p> <p>22 now.</p> <p>23 BY THE TRUSTEE:</p> <p>24 Q Say, back on Christi Rowan, what's the name of</p> <p>25 her photography business?</p>
Page 19	Page 21
<p>1 into her account?</p> <p>2 A I've given her some money, yes.</p> <p>3 Q Okay. And that's all disclosed in the Statement</p> <p>4 of Financial Affairs?</p> <p>5 A I believe so.</p> <p>6 Q All right. The furniture that's in that home,</p> <p>7 where did it come from? In that home, now, I'm</p> <p>8 still talking about Northridge Drive.</p> <p>9 A A good share of it is hers and a good share of it</p> <p>10 came from Scottsdale.</p> <p>11 Q Okay. So some of it there is Denny Hecker</p> <p>12 property?</p> <p>13 A Denny Hecker property and some of it is hers.</p> <p>14 Q Okay. Where did the furniture that came from</p> <p>15 Scottsdale -- I understand it came from</p> <p>16 Scottsdale, but where was it before it came to</p> <p>17 Northridge?</p> <p>18 A It was a house that we had that we sold a couple</p> <p>19 of years ago.</p> <p>20 Q Okay. Was it the house sold in 2008 or was it</p> <p>21 before that?</p> <p>22 A I'm not sure.</p> <p>23 Q Okay. And so it's your testimony that some of</p> <p>24 the furniture in there came from Scottsdale and</p> <p>25 then some she moved in?</p>	<p>1 MR. CUTLER: The record should reflect</p> <p>2 that I've given the Trustee an original letter</p> <p>3 from Bruce Larson concerning the value of the</p> <p>4 Cross Lake property.</p> <p>5 THE TRUSTEE: Well, it's actually</p> <p>6 Robert Berklund. I think he's an associate of</p> <p>7 Mr. Larson. Larson Group Real Estate is the</p> <p>8 place.</p> <p>9 BY THE TRUSTEE:</p> <p>10 Q But back to Ms. Rowan, what's the name of her</p> <p>11 photography business?</p> <p>12 A I don't know the exact name. It might be Rowan</p> <p>13 Photography. I'm not sure.</p> <p>14 Q Okay. Are there lease payments being made on the</p> <p>15 Northridge property?</p> <p>16 A The lease payments, they spent a great deal of</p> <p>17 capital improving the property.</p> <p>18 Q Who's they?</p> <p>19 A Rowan.</p> <p>20 Q Okay.</p> <p>21 A And the first actual payment starts August 1st.</p> <p>22 Q So Ms. Rowan made improvements to the real</p> <p>23 property?</p> <p>24 A Yes, she did.</p> <p>25 Q What value, how much in a dollar value?</p>

<p style="text-align: right;">Page 22</p> <p>1 A I believe in the 25,000 range.</p> <p>2 Q Okay.</p> <p>3 A The house had sat vacant for two years.</p> <p>4 Q All right. So no lease payments are being made</p> <p>5 at this time; is that right?</p> <p>6 A Well, in consideration of the lease payments,</p> <p>7 they did the improvements.</p> <p>8 Q So no lease payments are -- no actual money is</p> <p>9 changing hands right now; is that right?</p> <p>10 A The first cash transaction will be August 1st.</p> <p>11 Q Okay. I'm back on the schedules now and I'm</p> <p>12 looking at Schedule B for the personal property.</p> <p>13 And cash on hand says \$5,500, correct?</p> <p>14 A Yes.</p> <p>15 Q Is that all the cash that you had on hand when</p> <p>16 you filed bankruptcy?</p> <p>17 A Yes, it was.</p> <p>18 Q There was a search warrant executed on your home</p> <p>19 on Cross Lake and in Medina, correct?</p> <p>20 A Yes, there was.</p> <p>21 Q Was any cash seized in connection with the</p> <p>22 execution of those warrants?</p> <p>23 A My wife and I had 17,000 in the safe at Cross</p> <p>24 Lake.</p> <p>25 Q Okay. 17,000?</p>	<p style="text-align: right;">Page 24</p> <p>1 there.</p> <p>2 Q Okay.</p> <p>3 MR. CUTLER: And, Mr. Hecker, the safe</p> <p>4 was drilled by the State; is that correct?</p> <p>5 THE DEBTOR: Yes.</p> <p>6 MR. CUTLER: And that's because you</p> <p>7 didn't have a key to --</p> <p>8 THE DEBTOR: I didn't even know the</p> <p>9 combination.</p> <p>10 BY THE TRUSTEE:</p> <p>11 Q Okay. Back to Schedule B, the bank balances,</p> <p>12 there are a large number of banks here. And as</p> <p>13 Mr. Cutler indicated, he disclosed to me before</p> <p>14 this meeting started and then on the record here</p> <p>15 that there were I think a couple of accounts that</p> <p>16 you had overlooked. How did you determine the</p> <p>17 balances in each of these bank accounts when you</p> <p>18 had Schedule B prepared?</p> <p>19 A I've had an assistant that handles all my</p> <p>20 personal affairs for the last 15 years. They</p> <p>21 prepared that with the statements they received</p> <p>22 from the banks.</p> <p>23 Q And who was that assistant?</p> <p>24 A Susan Miller.</p> <p>25 Q What's Susan Miller's address?</p>
<p style="text-align: right;">Page 23</p> <p>1 A Yes. 5,500 was my money, the balance was hers.</p> <p>2 Q Where would she have gotten her money?</p> <p>3 A She would have gotten her money from me over a</p> <p>4 period of time.</p> <p>5 Q Yeah. When was the last time she was employed?</p> <p>6 A In 16 years, never.</p> <p>7 Q Okay. So the whole 17,000 originally came from</p> <p>8 Denny Hecker?</p> <p>9 A Yes.</p> <p>10 Q And is the State of Minnesota still holding that</p> <p>11 money?</p> <p>12 A Yes, they are.</p> <p>13 Q All right. Was any money seized in Medina?</p> <p>14 A No.</p> <p>15 Q Did they look in the safe there?</p> <p>16 A They spent hours looking in the safe.</p> <p>17 Q Did they take anything out of the safe that you</p> <p>18 know of?</p> <p>19 A There were a couple of Minnesota Viking watches.</p> <p>20 Q Okay.</p> <p>21 A After seven hours of drilling the safe.</p> <p>22 Q Is that all that you think was in the safe, was</p> <p>23 two Minnesota Viking watches?</p> <p>24 A That's all the -- I didn't have any money. I</p> <p>25 didn't have anything. I was surprised they were</p>	<p style="text-align: right;">Page 25</p> <p>1 A I don't know. She lives in Elk River.</p> <p>2 Q Okay. Is she employed by one of the Hecker</p> <p>3 companies?</p> <p>4 A She just resigned a week ago.</p> <p>5 Q I'm sorry. She resigned --</p> <p>6 A Just resigned a week ago.</p> <p>7 Q Okay. So is it accurate to say she provided the</p> <p>8 information to your attorneys to put in here?</p> <p>9 A She provided the information for me and she</p> <p>10 overlooked a couple of accounts.</p> <p>11 Q Okay. Did you verify any of that information</p> <p>12 before you signed the schedules? I mean, by that</p> <p>13 I mean --</p> <p>14 A To the best of my knowledge, the information we</p> <p>15 gave you when we did the schedules was all there</p> <p>16 was.</p> <p>17 Q Did you personally look at any of the bank</p> <p>18 account statements to verify the amounts?</p> <p>19 A Susan prepared a spreadsheet with all the bank</p> <p>20 balances from January through the date I filed.</p> <p>21 Q All right.</p> <p>22 A I was surprised today when Clint had whatever</p> <p>23 there was.</p> <p>24 THE TRUSTEE: Mr. Cutler, would you</p> <p>25 send me a copy of that spreadsheet, please?</p>

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<p>1 MR. CUTLER: Yes.</p> <p>2 THE TRUSTEE: Is that a problem?</p> <p>3 MR. CUTLER: No, it's not a problem.</p> <p>4 THE TRUSTEE: Great, okay.</p> <p>5 THE TRUSTEE: And I received today from</p> <p>6 Mr. Cutler just before this meeting started, I</p> <p>7 received copies of bank account statements</p> <p>8 because, of course, you have to provide me with</p> <p>9 copies of statements that cover the date of</p> <p>10 filing. I haven't had the chance to review these</p> <p>11 to see if all of the statements are here for</p> <p>12 covering June 4.</p> <p>13 Did you look at that, Mr. Cutler; are</p> <p>14 there some missing?</p> <p>15 MR. CUTLER: Well, I relied on my</p> <p>16 staff.</p> <p>17 THE TRUSTEE: Okay.</p> <p>18 MR. CUTLER: But we believe it covers</p> <p>19 the period of the date of the filing.</p> <p>20 THE TRUSTEE: For all of the accounts?</p> <p>21 MR. CUTLER: Yes.</p> <p>22 BY THE TRUSTEE:</p> <p>23 Q Okay. Mr. Hecker, in looking at the TCF account,</p> <p>24 I just have a couple questions for you about a</p> <p>25 few things that I see going out of there.</p>	<p>1 what did you do with the 5,500 after that?</p> <p>2 A We went to Cross Lake. And we had met with you</p> <p>3 and you had asked to -- whether it be turned over</p> <p>4 with the jewelry and the other things, so I put</p> <p>5 it in the safe in Cross Lake.</p> <p>6 Q Did you spend any cash between the time that your</p> <p>7 bankruptcy was filed and the time that the search</p> <p>8 warrant was executed?</p> <p>9 A I don't understand the question.</p> <p>10 Q Between June 1st and the day the search warrant</p> <p>11 was executed, did you spend any cash anywhere?</p> <p>12 A I believe the search warrant was executed on</p> <p>13 June 15th or 14th.</p> <p>14 Q Okay.</p> <p>15 A So I filed on June 4th.</p> <p>16 Q Yep. Between those dates, the 4th and whatever</p> <p>17 day the search warrant was executed, did you</p> <p>18 spend any cash anywhere?</p> <p>19 A I don't believe any significant amount.</p> <p>20 Q What does that -- What does significant mean to</p> <p>21 you?</p> <p>22 A Well, one, I don't recall, but I don't believe --</p> <p>23 If there was any money spent, it was money that I</p> <p>24 got from my wife or... I'd say it was less than a</p> <p>25 couple thousand dollars.</p>
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<p>1 MR. MOHRMAN: Is this on the</p> <p>2 schedules?</p> <p>3 BY THE TRUSTEE:</p> <p>4 Q I don't know if it is or not. Here's the TCF</p> <p>5 bank statement and it's dated 6/10, you see, up</p> <p>6 here (indicating). And down here (indicating),</p> <p>7 on 5/19 and 5/14 I see two checks, seventy-three</p> <p>8 -- 5173 and 5174, each for \$2,500 going out. Do</p> <p>9 you know what those were?</p> <p>10 A I have no idea.</p> <p>11 Q Okay. Mr. Hecker, how are you so sure that you</p> <p>12 had exactly \$5,500 in cash on the day of filing?</p> <p>13 A At the filing Clint asked me how much money I</p> <p>14 had, and I shared with you at our first meeting</p> <p>15 it was 5,500.</p> <p>16 Q No. I understand that's what you told Mr. Cutler</p> <p>17 and you told me that too. I'm asking you, how</p> <p>18 are you sure that it was 5,500? Did you count it</p> <p>19 out?</p> <p>20 A Yes, I did.</p> <p>21 Q Okay. Where were you when you did that?</p> <p>22 A To the best of my knowledge, my office.</p> <p>23 Q Here in the Cities?</p> <p>24 A Yes.</p> <p>25 Q All right. And then you took that 5,500, and</p>	<p>1 Q Okay. So between those dates it would have been</p> <p>2 -- you think you spent less than a couple</p> <p>3 thousand dollars in cash?</p> <p>4 A Yes.</p> <p>5 Q And the source of that cash would have been from</p> <p>6 Tamitha?</p> <p>7 A Yes.</p> <p>8 Q Okay. Have you received any cash from any</p> <p>9 sources other than Tamitha since you filed your</p> <p>10 bankruptcy?</p> <p>11 A Are you saying cash or --</p> <p>12 Q I'm saying cash right now.</p> <p>13 A Would a loan be cash?</p> <p>14 Q Well, I was going to ask you about loans too.</p> <p>15 Let's stick to cash for a minute, though. Have</p> <p>16 you received currency?</p> <p>17 A Since the filing?</p> <p>18 Q Yes.</p> <p>19 A Not to my knowledge.</p> <p>20 Q Have you received loans since the filing?</p> <p>21 A Yes, I have.</p> <p>22 Q From who?</p> <p>23 A Steve McDaniels.</p> <p>24 Q Okay. And how much was it, sir?</p> <p>25 A A hundred thousand. Actually, it was received by</p>

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<p>1 the new business.</p> <p>2 Q Okay. So there would be a \$100,000 check going</p> <p>3 into an --</p> <p>4 A That's correct.</p> <p>5 Q -- account -- going into an account for the new</p> <p>6 business?</p> <p>7 A Yes.</p> <p>8 Q Okay. So since the filing, that's your only</p> <p>9 source of moneys, is that \$100,000 loan?</p> <p>10 A I believe so, yes.</p> <p>11 Q Okay. Back to the schedules, Mr. Hecker, at</p> <p>12 Item 21 it lists GELCO Corporation Sales</p> <p>13 Agreement. What is that? And I'm just looking</p> <p>14 for a brief description here.</p> <p>15 A It's an earn out on a business I sold to GE.</p> <p>16 Q Okay. And is that payable to you personally,</p> <p>17 Dennis Hecker personally?</p> <p>18 A It's payable to one of three different entities.</p> <p>19 Q Which would be?</p> <p>20 MR. CUTLER: Do you recall?</p> <p>21 THE DEBTOR: I don't recall, but I</p> <p>22 think it's disclosed.</p> <p>23 MR. CUTLER: There's a written</p> <p>24 contract --</p> <p>25 THE DEBTOR: Yes.</p>	<p>1 believe that we have a claim.</p> <p>2 Q Okay.</p> <p>3 A Right now they have the stock secured for a</p> <p>4 million dollars and I paid four million for it.</p> <p>5 Q Is that the JC Bromac --</p> <p>6 A Yes.</p> <p>7 Q -- Corporation? That's what that is?</p> <p>8 A Yes.</p> <p>9 Q Okay. And I have documents that Mr. Cutler, I</p> <p>10 believe, has provided to me indicating that there</p> <p>11 was a loan. It says that it's loaning it to</p> <p>12 Dennis E. Hecker in October of 2008, a million</p> <p>13 dollars. Is that what you were talking about?</p> <p>14 A I believe so, yes.</p> <p>15 Q All right. And what happened to that million</p> <p>16 dollars; where was it deposited, is what I'm</p> <p>17 asking?</p> <p>18 A That million dollars ended up into the</p> <p>19 businesses.</p> <p>20 Q Okay. Did it go through one of your personal</p> <p>21 accounts before it got to the businesses?</p> <p>22 A I'm not sure.</p> <p>23 Q Okay. When I looked at these documents, it</p> <p>24 looked to me like there had been -- at some point</p> <p>25 a dispute arose between Cornerstone Bank and</p>
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<p>1 MR. CUTLER: -- that lists the</p> <p>2 entities?</p> <p>3 THE DEBTOR: That's correct.</p> <p>4 BY THE TRUSTEE:</p> <p>5 Q Yeah. I'm just trying to determine, is one of</p> <p>6 those three Dennis Hecker personally?</p> <p>7 A I don't want to sound like I'm naive. It could</p> <p>8 be, but I'm not sure.</p> <p>9 Q Okay. What are the causes -- And I'm still at</p> <p>10 Item 21 in Schedule B -- the causes of action</p> <p>11 against the shareholders and directors of</p> <p>12 HogRider Investments. Again, I'm just looking</p> <p>13 for a brief summary here.</p> <p>14 A I invested four million with the company and I</p> <p>15 was to be a director, shareholder. And over the</p> <p>16 period of time, I was never invited to a meeting</p> <p>17 or advised of the shareholder actions or the</p> <p>18 board actions.</p> <p>19 And when the businesses started to</p> <p>20 fail, we borrowed a million dollars from them.</p> <p>21 I'm not sure which company or how it all lined</p> <p>22 up, but part of that was we had to give them a</p> <p>23 get-out-of-jail release for all the things that</p> <p>24 they didn't do with me as a shareholder,</p> <p>25 director. And I don't believe -- we think -- I</p>	<p>1 JC Bromac. Is that right?</p> <p>2 A I believe so.</p> <p>3 Q Do you remember that? Tell me what you do</p> <p>4 remember about it.</p> <p>5 A To the best of my knowledge, we borrowed the</p> <p>6 money from Cornerstone Bank to pay a portion of</p> <p>7 the HogRider investment. And I believe that</p> <p>8 there were some concerns of who had a filing on</p> <p>9 the stock.</p> <p>10 Q Okay. So the three million from Cornerstone was</p> <p>11 for the same -- an investment in this -- the</p> <p>12 HogRider entity?</p> <p>13 A There was a company that borrowed the money from</p> <p>14 Cornerstone.</p> <p>15 Q Okay.</p> <p>16 A And I'm not certain that the stock was pledged as</p> <p>17 collateral.</p> <p>18 Q Okay. So a company borrowed the money. Did</p> <p>19 Denny Hecker personally guarantee it?</p> <p>20 A Yes, he did.</p> <p>21 Q Okay. When was the money borrowed from</p> <p>22 Cornerstone? Let me try and narrow the frame a</p> <p>23 little bit. Was it in late 2008 that it was</p> <p>24 borrowed from Cornerstone?</p> <p>25 A It was borrowed when I bought the stock from</p>

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<p>1 HogRider.</p> <p>2 Q Can you put a rough time frame on that? Was it</p> <p>3 2008, 2007?</p> <p>4 A 2007 or '8.</p> <p>5 Q Okay. When you originally borrowed -- When the</p> <p>6 money was originally borrowed from that bank, did</p> <p>7 they get security documents then? By that I mean</p> <p>8 did they get a security interest in various</p> <p>9 assets then or did they get it later?</p> <p>10 A I don't know. I just signed the guarantee.</p> <p>11 Q Okay. And then did the money from that loan go</p> <p>12 right to the company? Well, let me rephrase it.</p> <p>13 Did it go into your personal account?</p> <p>14 A I'm not sure if it went to the personal account</p> <p>15 or direct to them.</p> <p>16 Q Okay.</p> <p>17 A The end result was they got it.</p> <p>18 Q They being?</p> <p>19 A HogRider.</p> <p>20 Q Okay.</p> <p>21 A Or, actually, the shareholders. I'm not sure.</p> <p>22 It could be HogRider.</p> <p>23 Q There are written documents that would show me --</p> <p>24 A There's a transaction that has, if I can recall,</p> <p>25 yes.</p>	<p>1 checks, wire transfers, any source of funds,</p> <p>2 loans, that you've received since filing is</p> <p>3 either money from Tamitha or that \$100,000 loan;</p> <p>4 is that right?</p> <p>5 A I believe so.</p> <p>6 Q Okay. Have you -- In the last five years,</p> <p>7 Mr. Hecker, have you ever transferred money out</p> <p>8 of this country?</p> <p>9 A Never.</p> <p>10 MR. CUTLER: Well, wait a minute.</p> <p>11 THE DEBTOR: Not that I'm aware of. I</p> <p>12 believe never, but not that I'm aware of.</p> <p>13 BY THE TRUSTEE:</p> <p>14 Q Okay. One of your businesses has a business in</p> <p>15 Canada, in Ontario, right?</p> <p>16 A A fishing lodge, yes.</p> <p>17 Q Yeah. So do you think you might have transferred</p> <p>18 money into Canada with respect to that?</p> <p>19 A I don't want to sound like I don't know, but I</p> <p>20 had a whole big group of businesses and somebody</p> <p>21 handled all these investments.</p> <p>22 Q Okay.</p> <p>23 A Could have.</p> <p>24 MR. CUTLER: But I think Mr. Seaver is</p> <p>25 asking about you personally.</p>
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<p>1 Q Okay. Let me show you a schedule of items, and</p> <p>2 this is from the AIG policy. And this relates to</p> <p>3 a lawn mower and attachments, and I think you</p> <p>4 talked about this earlier. Is this the actual</p> <p>5 lawn mower and attachments that exist now?</p> <p>6 A I have no idea.</p> <p>7 Q Okay.</p> <p>8 A But I believe that --</p> <p>9 Q I'll tell you I took that from your AIG policy.</p> <p>10 You can see the stamping up there.</p> <p>11 A I want to explain that the number of businesses I</p> <p>12 had, I didn't insure or direct or follow-up or</p> <p>13 understand the magnitude of what it was. I just</p> <p>14 told somebody to handle it. So if this is the</p> <p>15 tractor, I'm not sure.</p> <p>16 Q Sure.</p> <p>17 A There's a newer tractor that exists that cost</p> <p>18 more money.</p> <p>19 Q Okay. And you've told Fred Radde?</p> <p>20 A I e-mailed him yesterday.</p> <p>21 Q Okay, great. Is that in Medina?</p> <p>22 A It's in Cross Lake.</p> <p>23 Q Okay. We just talked about any money you</p> <p>24 received since filing. I just want to make sure</p> <p>25 we're clear on this. The only money, cash,</p>	<p>1 BY THE TRUSTEE:</p> <p>2 Q Yeah, I am, and I was just going to clarify</p> <p>3 that.</p> <p>4 A Mr. Seaver, the check could have came from me,</p> <p>5 but I'm not sure if it did or not.</p> <p>6 Q Okay. So let's eliminate Canada from the</p> <p>7 question for a minute. You have never</p> <p>8 transferred more than \$5,000 to any bank in any</p> <p>9 country outside of the United States; is that</p> <p>10 correct?</p> <p>11 A The only transfer we might have is when I</p> <p>12 acquired the Las Ventanas property.</p> <p>13 Q And tell me what that is.</p> <p>14 A It's a condo in Mexico.</p> <p>15 Q All right. So there may have been or would have</p> <p>16 been money going to Mexico for that purpose?</p> <p>17 A Mr. Seaver, if it was for the closing or for the</p> <p>18 title, escrow, there's documents to support all</p> <p>19 that.</p> <p>20 Q Have you ever held a bank account outside of the</p> <p>21 United States?</p> <p>22 A I don't believe so.</p> <p>23 Q Have you ever had anyone else take money from the</p> <p>24 United States on your behalf to deposit into any</p> <p>25 account --</p>

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<p>1 A No.</p> <p>2 Q -- outside the United States?</p> <p>3 A No.</p> <p>4 Q Is there a -- Your schedules -- I'm back at</p> <p>5 Schedule B. It lists a Grand piano, a 1985</p> <p>6 Kawai. Is there also another Grand piano in one</p> <p>7 of the homes?</p> <p>8 MR. MOHRMAN: What page are you on?</p> <p>9 BY THE TRUSTEE:</p> <p>10 Q I'm on -- It's Item 8 at Schedule B.</p> <p>11 A I believe that there is two Grand pianos. One is</p> <p>12 scheduled in the personal property of Hunter and</p> <p>13 one is scheduled in the property of Northridge.</p> <p>14 Q Okay. So I'm looking right now. I'm looking at</p> <p>15 Item 8, specifically, of Schedule B and there's</p> <p>16 one Grand piano there, a 1985 Kawai. Is that one</p> <p>17 at -- Is that one at Hunter Ridge (sic)?</p> <p>18 A That would be at Northridge.</p> <p>19 Q Northridge, okay. And the other one?</p> <p>20 A Hunter Drive.</p> <p>21 Q Hunter Drive. I'm sorry. I misspoke. What sort</p> <p>22 of Grand piano is at Hunter Drive; do you know</p> <p>23 the model?</p> <p>24 A It's seven to ten years old. I have no idea.</p> <p>25 Q How much did you pay for it?</p>	<p>1 numbers on them.</p> <p>2 BY THE TRUSTEE:</p> <p>3 Q You see there's a million dollar transfer to</p> <p>4 Smith Barney July of '08, and then on the next</p> <p>5 page there are other large transfers, 800,000,</p> <p>6 700,000 and so on. Why were you making those</p> <p>7 transfers to Smith Barney?</p> <p>8 A They were margin calls on stock that I bought.</p> <p>9 Q Okay. And what stock was that?</p> <p>10 A Dollar Rent-A-Car.</p> <p>11 Q All right. What happened to that stock?</p> <p>12 A It went from \$12 or \$13 to 85 cents.</p> <p>13 Q Do you still own that stock?</p> <p>14 A No, I don't.</p> <p>15 Q What happened to it; how did you dispose of it?</p> <p>16 A I sold it to Smith Barney.</p> <p>17 Q Okay. Was it part of this whole series of</p> <p>18 transactions that went to Smith Barney?</p> <p>19 A The transactions were with Smith Barney in the</p> <p>20 acquisition and the sale.</p> <p>21 Q Okay. And when did you sell it to Smith Barney?</p> <p>22 A I didn't sell it to them. They were the</p> <p>23 stockbroker.</p> <p>24 Q Right, I know, but you bought the --</p> <p>25 A I believe sometime in -- I bought the week of</p>
Page 39	Page 41
<p>1 A I believe at that time 10,000 or less.</p> <p>2 Q Okay. Have you given away sets of golf clubs to</p> <p>3 anyone in the last year?</p> <p>4 A In our business we did a lot of promotions and</p> <p>5 give-aways. We might have gave away a half a</p> <p>6 dozen sets --</p> <p>7 Q Okay.</p> <p>8 A -- maybe more.</p> <p>9 Q Still at Schedule B, Item 13, the Smith Barney</p> <p>10 consolidated account, let me tie this in with</p> <p>11 some other things. When I went through the</p> <p>12 transfers that you disclosed in the Statement of</p> <p>13 Financial Affairs, there are a number of very</p> <p>14 large transfers to Smith Barney. I'll just pick</p> <p>15 one as an example. I'm looking at what your</p> <p>16 document says at the top of it is SOFA 3(c).</p> <p>17 It's First Federal Riverwood, transfers to</p> <p>18 affiliates and relatives from June 4, 2008 to</p> <p>19 June 4, 2009.</p> <p>20 MR. MOHRMAN: Is this in the</p> <p>21 schedules?</p> <p>22 THE TRUSTEE: Yeah, it is.</p> <p>23 MR. MOHRMAN: Where?</p> <p>24 THE TRUSTEE: Here, I can show you my</p> <p>25 copy. For some reason mine don't have page</p>	<p>1 Easter of '08, and I believe sometime in July</p> <p>2 of '08 I sold it.</p> <p>3 Q And you sold it to Smith Barney?</p> <p>4 A They were the broker.</p> <p>5 MR. CUTLER: They were the broker.</p> <p>6 BY THE TRUSTEE:</p> <p>7 Q Oh, okay. You just sold it in the market?</p> <p>8 A Sold it on the market.</p> <p>9 Q Okay, okay. All right. Going back to the main</p> <p>10 part of Schedule B -- And I would see the funds</p> <p>11 from that coming into one of your bank accounts?</p> <p>12 A Yes.</p> <p>13 Q Okay. Going back to Schedule B, there's</p> <p>14 reference to a membership in Spring Hill Club.</p> <p>15 I'm at Item 35 of Schedule B.</p> <p>16 A Yes.</p> <p>17 Q What is Spring Hill Club?</p> <p>18 A It's a golf club.</p> <p>19 Q Okay. And what kind of membership do you have</p> <p>20 there?</p> <p>21 A A golfing membership.</p> <p>22 Q Okay. Was there an initiation fee when you</p> <p>23 joined?</p> <p>24 A Originally it was 65,000.</p> <p>25 Q Okay.</p>



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<p>1 A And today they lowered new members to, I believe,</p> <p>2 40,000, and there's a waiting list of about three</p> <p>3 years to sell it back to them.</p> <p>4 Q There's an agreement that they'll buy back</p> <p>5 memberships, but you have to get put on a waiting</p> <p>6 list; is that the way it goes?</p> <p>7 A I'm not positive, but that's what I believe.</p> <p>8 Q Okay. Have you tried to do that, to sell that?</p> <p>9 A The guy told me that I wouldn't live long enough</p> <p>10 to buy it back.</p> <p>11 Q Okay. So you asked about it, but you didn't do</p> <p>12 it back when you learned you wouldn't live long</p> <p>13 enough?</p> <p>14 MR. CUTLER: You still own it?</p> <p>15 THE DEBTOR: Yeah, I still own it.</p> <p>16 BY THE TRUSTEE:</p> <p>17 Q Yeah, okay. Do you still go out there and use</p> <p>18 it?</p> <p>19 A I haven't used it once this year.</p> <p>20 Q You haven't used it at all this year?</p> <p>21 A No.</p> <p>22 Q Okay.</p> <p>23 A One more thing.</p> <p>24 Q Sure.</p> <p>25 A I believe on the golf club membership, when you</p>	<p>1 top, and that has some transfers to Toyota Motor</p> <p>2 Credit right up at the top, doesn't it?</p> <p>3 A Yes, it does.</p> <p>4 Q Okay. Why were those transfers made?</p> <p>5 A I believe they were payments that I made on the</p> <p>6 buildings or paid on behalf of the dealership for</p> <p>7 credit lines that they had that they were</p> <p>8 deficient in.</p> <p>9 Q All right. These are payments coming out of the</p> <p>10 Denny Hecker personal account, though; am I</p> <p>11 right?</p> <p>12 A I believe so, yes.</p> <p>13 Q Okay. Mr. Hecker, I have seen some documents</p> <p>14 that would seem to indicate that some shares of</p> <p>15 stock that you owned were turned over to Toyota</p> <p>16 in May of 2009. Does that ring any bells with</p> <p>17 you?</p> <p>18 A Shares of stock?</p> <p>19 Q Yeah, business interests. Here, let me just show</p> <p>20 you. We -- My attorneys received your corporate</p> <p>21 records or business records for various of your</p> <p>22 entities. And I'm looking at the stock</p> <p>23 register. This is Brainerd Imports, LLC.</p> <p>24 There's a notation here that says, original</p> <p>25 certificate delivered to Toyota Motor Credit</p>
Page 43	Page 45
<p>1 go on the list you still have to pay the dues</p> <p>2 until they buy it back.</p> <p>3 Q Okay. How much are the dues?</p> <p>4 A Twenty five thousand a year.</p> <p>5 Q Where are you on dues payments? By that I mean</p> <p>6 are you current on payments?</p> <p>7 A I believe at this time -- You make an annual</p> <p>8 payment, semiannual payment. I believe that at</p> <p>9 this point I'm current until the next payment is</p> <p>10 due.</p> <p>11 Q Okay. There was a payment made in the months</p> <p>12 before you filed bankruptcy, right?</p> <p>13 A I believe so.</p> <p>14 Q Okay. Is there still furniture in a storage</p> <p>15 facility in Scottsdale?</p> <p>16 A That's the furniture now located in Medina.</p> <p>17 Q Okay. So it all got moved up here?</p> <p>18 A Yes.</p> <p>19 Q So there's no furniture in storage in Scottsdale?</p> <p>20 A No.</p> <p>21 Q Okay. At the Statement of Financial Affairs at</p> <p>22 Item 3B, that's the transfers to creditors from</p> <p>23 March 6 of '09 to June 4 of '09, and I'm starting</p> <p>24 at the first page. And, Mr. Hecker, I've just</p> <p>25 turned it to a page that says SOFA 3(b) up at the</p>	<p>1 Corporation 5/7/09, and then it refers to</p> <p>2 99 membership units. And, in fact, in that</p> <p>3 corporate file there's a receipt here from Toyota</p> <p>4 Motor Credit Corporation indicating their receipt</p> <p>5 of those business membership units and one other</p> <p>6 membership unit.</p> <p>7 A Is there an attachment to -- Was the request from</p> <p>8 Toyota attached to the -- And you got that from</p> <p>9 our legal counsel?</p> <p>10 Q It came through your attorney.</p> <p>11 MR. CUTLER: It came from Mr. Parker?</p> <p>12 BY THE TRUSTEE:</p> <p>13 Q It did, yeah. That's my understanding.</p> <p>14 A To the best of my knowledge, maybe Toyota Credit</p> <p>15 required that to continue the facility until the</p> <p>16 dealership now has a purchase agreement on.</p> <p>17 Q Okay. Do you recall, have any personal knowledge</p> <p>18 of turning those things over to Toyota?</p> <p>19 A Mr. Seaver, if somebody put it in front of me, I</p> <p>20 signed it, I'm sure.</p> <p>21 Q Okay. You had -- Had you guaranteed the debt to</p> <p>22 Toyota Motor Credit?</p> <p>23 A Yes, I did.</p> <p>24 Q Okay. What credit cards have you used for your</p> <p>25 personal expenses in the last two years?</p>

<p style="text-align: right;">Page 46</p> <p>1 A I've had American Express, Visa. I'm not sure 2 about a MasterCard. 3 Q Would it be accurate to say that the primary card 4 you used was that American Express black card? 5 A Yes. 6 Q And then there's a US Bank Visa card listed in 7 here. Would that be your other, secondary card? 8 A I believe so. 9 Q Do you have any additional credit cards that were 10 not listed in the schedules? 11 A There may be a gas credit card. I'm not sure. 12 Q Okay. 13 A Personally I wouldn't. 14 Q You aren't using any right now? 15 A Personal credit cards? 16 Q Yes. 17 A I don't have any. 18 Q Okay. Who is Pat Terhar, T-E-R-H-A-R? 19 A He's an associate that's worked for us for 20 15 years. 21 Q Okay. Is he a friend of yours also? 22 A Most of my employees were friends of mine. 23 Q Okay. Who's Alex Terhar? 24 A His 17-year-old son. 25 Q Okay. Where have you purchased jewelry in the</p>	<p style="text-align: right;">Page 48</p> <p>1 A I would have to get the names for you. 2 Q Where would you get the names? 3 A Look it up in the Yellow Pages. 4 Q Oh, and you'd see it and recognize it? 5 A Yes. 6 Q Would you do that and just get that to 7 Mr. Cutler? 8 A Yes. 9 Q Thank you. What's 5H Investments? I just see a 10 payment here to them for an electronic funds 11 transfer back in August of '08, \$3,500. 12 MR. MOHRMAN: Where are you looking 13 sir? 14 BY MR. SEAVER: 15 Q I am looking on one of the pages of the Statement 16 of Financial Affairs, the very last item on that 17 page. Here, I'll just show you rather than go 18 through there. See, this page just shows 19 5H Investment, \$3,500, 8/12 of '08. 20 MR. MOHRMAN: Can I see that again? 21 THE TRUSTEE: Sure. I'm trying to 22 figure out where we are. Thank you. 23 THE DEBTOR: I have no idea. 24 BY THE TRUSTEE: 25 Q No idea? Okay. Since your bankruptcy filing,</p>
<p style="text-align: right;">Page 47</p> <p>1 last two years? 2 A I believe from -- The schedule reflects, I think, 3 Molina Jewelers in Scottsdale. 4 Q I'm sorry, who was that? 5 A Molina. 6 Q Molina, M-O-L-I-N-A? 7 A Yes. 8 Q Okay. 9 A And Royal Jewelers in Fargo. 10 Q All right. 11 A And I'm not sure of anywhere else. 12 Q How about Las Vegas, any jewelers there? 13 A Maybe somewhere on the credit card schedule. I'm 14 not sure. 15 Q Okay. How about Aspen? 16 A There may be something on the credit card 17 schedule for Aspen. 18 Q Yeah. I'm not asking you about what's in the 19 schedules, though. I'm asking where you 20 purchased jewelry in the last -- 21 A I'm answering to the best of my ability. 22 Q You don't recall any purchases in Aspen? 23 A I recall Aspen and Las Vegas is probable. 24 Q Okay. What would be the jewelers in those two 25 places?</p>	<p style="text-align: right;">Page 49</p> <p>1 Mr. Hecker, have you paid your attorneys any 2 money? 3 A Yes. 4 Q All right. How much have you paid? 5 A I believe -- 6 MR. CUTLER: Can we have a moment? 7 (Discussion held off the record between 8 the Debtor and his attorney.) 9 THE DEBTOR: Yes. 10 BY THE TRUSTEE: 11 Q How much have you paid? 12 A Ten thousand. 13 Q And that was to who? 14 A Mr. Mohrman's firm. 15 Q All right. And where did that money come from? 16 A It came from the \$100,000. 17 Q Okay. Shady Roost Lodge, that's a fishing resort 18 in Ontario, right? 19 A Yes. 20 Q Is there a mortgage against that property? 21 A I'm not sure if there's a mortgage or a credit 22 facility against the property. 23 Q Do you think somehow it's encumbered by some 24 debt? 25 A Yes.</p>

<p style="text-align: right;">Page 50</p> <p>1 Q And how much do you think that debt is?</p> <p>2 A I would be guessing. Five or 600,000, I'm not</p> <p>3 sure.</p> <p>4 Q Okay. Let me show you Schedule F, the front page</p> <p>5 of Schedule F. The Alliance Bank entry, in the</p> <p>6 middle column it says 6/8/09, and then it says,</p> <p>7 all of the debtor's ownership interest in Jacob</p> <p>8 Holdings of Nestor Falls. What does that mean?</p> <p>9 A I believe it means that the two shareholders</p> <p>10 pledged their stock for the loan.</p> <p>11 Q Okay. The date there is June 8 of 2009, and</p> <p>12 that's --</p> <p>13 A Oh, I don't believe the date is correct.</p> <p>14 Q Okay. When do you think that happened? I'm not</p> <p>15 looking for an exact date, just a rough time</p> <p>16 frame.</p> <p>17 A A year or two or three before.</p> <p>18 Q Okay. In your Statement of Financial Affairs,</p> <p>19 you indicate that JP Morgan Chase seized some</p> <p>20 funds from an investment account in May of '09 --</p> <p>21 A Yes.</p> <p>22 Q -- but the number isn't in here. Do you know how</p> <p>23 much they seized? Give me a range if you don't</p> <p>24 know. Was it more than \$5,000?</p> <p>25 A Between five and ten, I believe.</p>	<p style="text-align: right;">Page 52</p> <p>1 MR. MOHRMAN: Hold on.</p> <p>2 THE TRUSTEE: Sure.</p> <p>3 BY THE TRUSTEE:</p> <p>4 Q It's Item 7 in the Statement of Financial</p> <p>5 Affairs.</p> <p>6 A Yes, okay.</p> <p>7 Q All right. The Rolex watch that you gave to</p> <p>8 Tamitha that's scheduled there, was that --</p> <p>9 that's not one of the Rolex watches that was on</p> <p>10 that list we went through awhile ago?</p> <p>11 A No, it wasn't.</p> <p>12 Q Okay. How much did you pay for that Rolex watch</p> <p>13 that you gifted to her?</p> <p>14 A I believe it's \$60,450.</p> <p>15 Q Okay. And then on the next page, still at this</p> <p>16 same section, there are a number of transfers</p> <p>17 here to family members. And I'm sure I can get</p> <p>18 those addresses from Mr. Cutler, correct?</p> <p>19 A Oh, sure. Yes.</p> <p>20 Q Okay. And then Chris McIntire, business</p> <p>21 associate, a Hublot watch, \$20,000. It just says</p> <p>22 within one year of petition date. Can you narrow</p> <p>23 that for me a little more?</p> <p>24 A To the best of my knowledge, it was one year. He</p> <p>25 was the partner in HogRider.</p>
<p style="text-align: right;">Page 51</p> <p>1 Q Okay. What investment account did that come out</p> <p>2 of?</p> <p>3 MR. CUTLER: Mr. Seaver, I think I have</p> <p>4 records at my office on that, and we'll be happy</p> <p>5 to supply them.</p> <p>6 THE TRUSTEE: Okay, great.</p> <p>7 BY THE TRUSTEE:</p> <p>8 Q Did you give Tamitha Hecker an expensive fur coat</p> <p>9 last December?</p> <p>10 A No, I didn't.</p> <p>11 Q Okay. Did you buy one?</p> <p>12 A Yes, I did.</p> <p>13 Q What happened to it?</p> <p>14 A I gave it to Christi Rowan.</p> <p>15 Q Okay. And how much was that coat; how much did</p> <p>16 you pay for that coat?</p> <p>17 A 60,000.</p> <p>18 Q 6-0?</p> <p>19 A Yes.</p> <p>20 Q 60,000, okay. Does she still have that coat?</p> <p>21 A I'm not sure.</p> <p>22 Q And I'm looking now at the transfer section of</p> <p>23 the Statement of Financial Affairs, the gift</p> <p>24 section, in particular. And I see on the first</p> <p>25 page there the transfers to Tamitha.</p>	<p style="text-align: right;">Page 53</p> <p>1 Q Okay. And it was just a gift?</p> <p>2 A And, Mr. Seaver, it was a Rolex or a Hublot, but</p> <p>3 I believe it was a Hublot. I didn't call him up</p> <p>4 and ask him, but I know I gave him a watch.</p> <p>5 Q Okay. And the CM Rowan that's here at this item,</p> <p>6 that's Christi Rowan?</p> <p>7 A Yes, it is.</p> <p>8 Q Okay. Who is J -- Well, I'm on the next page</p> <p>9 here now, page 8. There are actually page</p> <p>10 numbers on this section. It says page 8 up at</p> <p>11 the top. There's a J. Robb that received \$10,000</p> <p>12 cash. Who is J. Robb?</p> <p>13 A Jessica Robb.</p> <p>14 Q What's her relationship to you?</p> <p>15 A She was a friend.</p> <p>16 Q Okay. And does Mr. Cutler have her address?</p> <p>17 Well, would you get it to Mr. Cutler if he</p> <p>18 doesn't?</p> <p>19 A Yes, yes.</p> <p>20 Q Why did you give Ms. Robb \$10,000?</p> <p>21 A They needed money for personal things.</p> <p>22 Q Who's they?</p> <p>23 A She.</p> <p>24 Q Okay. Is she here in town?</p> <p>25 A Yes, she is.</p>

Page 54	Page 56
<p>1 Q All right. Item 8 of the Statement of Financial 2 Affairs, right down below this, there are 3 gambling losses here. Do you have documents that 4 would verify those losses? 5 A Yes. 6 Q All right. 7 A We'll get them to you. 8 Q Okay, great. And I saw in the payments that were 9 made within the specified time period, I saw -- I 10 think it was -- Was it \$50,000 to Mirage; do you 11 remember? I know -- 12 A I believe it's on the schedules. 13 Q Yeah. Whatever the number -- 14 A Yes. 15 Q -- in fact is, was that -- 16 A Yes. 17 Q -- a payment on old debt to Mirage? 18 A Yes. 19 Q Okay. The court reporter is trying to tell us -- 20 A She got our attention. 21 MR. CUTLER: You just did it again. 22 BY THE TRUSTEE: 23 Q All right. Still in your Statement of Financial 24 Affairs, Item 12, safe deposit boxes, there's 25 reference to Donna Rizner. Who is Donna Rizner?</p>	<p>1 A Yes, he does. 2 Q And what's the name of that company? 3 A Cross Lake something. 4 Q A property management company? 5 A Yes, that could be true. 6 Q Okay. Why were you sharing a safe deposit box 7 with him? 8 A He's a former Minnesota Viking, and we'd become 9 friends. And from time to time he needed the 10 ability to have cash to pay vendors or work on 11 the house and do a draw-down, whatever the case 12 might be. So I wasn't uncomfortable with him 13 having a safe deposit box for -- it's maybe five 14 years. 15 Q So would you put cash in there for him to use? 16 A Originally. 17 Q Okay. When the construction was going on? 18 A Before. He did construction for five years. He 19 not only built the house in Cross Lake, he built 20 each of the adjoining properties and did some 21 other work for us. 22 Q Okay. Have you paid any money to him or his 23 company in the last -- well, let's just say since 24 May 1st? 25 A It's listed in the schedules. I believe so.</p>
Page 55	Page 57
<p>1 A She had been a long-time associate, left and came 2 back. She was like administrative assistant and 3 came back in HR. And years ago, when she was 4 administrative assistant, we had a safe deposit 5 box at Wells Fargo. It might be ten years old. 6 Q Is it still there? 7 A No, she closed it. And the reason she closed it, 8 we didn't even know it existed, is that they 9 debited her Visa card or personal credit card to 10 say, the expense of your safe deposit box. She 11 went over there and she opened it up, and there 12 was nothing in it. 13 Q Do you, Mr. Hecker, do you have access to a safe 14 deposit box anywhere in this country? 15 A No, I don't. 16 Q All right. There's one listed here that is 17 apparently closed now at Lake State Bank, and it 18 says that Chip Lohemiller also had access. 19 A Yes. 20 Q Who's Mr. Lohemiller? 21 A Mr. Lohemiller is the individual who did the 22 construction on our house in Cross Lake and runs 23 a maintenance and repair business in Cross Lake 24 for properties. 25 Q All right. And he owns a company, right?</p>	<p>1 Q But I'm asking you -- I'm taking that question 2 further. Your schedules would have only covered 3 up to the date of filing. Have you paid him any 4 money since then -- 5 A Since the -- 6 Q -- or his company? 7 A I paid -- Since the filing I've paid 25,000 on 8 his bill and Tamitha paid 5,000. 9 Q All right. The 20,000 you paid, where did that 10 come from? 11 A Twenty-five. 12 Q Okay. 13 A It came from the hundred that I got an advance on 14 or the loan on. 15 Q Okay. What did you owe that money for; why was 16 the money owed? 17 A For services on three houses, installing the 18 docks and the landscaping and the maintenance and 19 things like that that come up. 20 Q He takes care of Cross -- 21 A Yes. 22 Q -- Lake? You've got to remember, wait until I'm 23 done. Jacob Hecker. I'm still on the Statement 24 of Financial Affairs, paragraph 11, Jacob 25 Hecker. That's your son, right?</p>

<p style="text-align: right;">Page 58</p> <p>1 A That's correct.</p> <p>2 Q Okay. And there's reference there to a transfer</p> <p>3 to minor account, with an ending balance of a</p> <p>4 certain amount. Have you transferred any money</p> <p>5 into that account in the last year?</p> <p>6 MR. CUTLER: Which item is it?</p> <p>7 BY THE TRUSTEE:</p> <p>8 Q Oh, I'm sorry. It's Item 14 of the Statement of</p> <p>9 Financial Affairs, on the second page of that.</p> <p>10 It's page 11 up at the top.</p> <p>11 A I believe about seven or eight years ago we</p> <p>12 opened an account for him with UBS, and it's in</p> <p>13 his name and the stock broker has managed the</p> <p>14 account.</p> <p>15 Q Have you contributed any funds since that time?</p> <p>16 A No.</p> <p>17 Q Okay. All right. And turn back to the page just</p> <p>18 before this. Still at Item 14, there's reference</p> <p>19 to North State Financial Corp. what is that</p> <p>20 company, sir?</p> <p>21 A North State Financial is a lending company that</p> <p>22 during the course of the last 15 years financed</p> <p>23 vehicles and other things for wholesale car</p> <p>24 dealers, basically equipment, whatever the case</p> <p>25 might be.</p>	<p style="text-align: right;">Page 60</p> <p>1 A It's been in the business, but I've used it.</p> <p>2 Q Well, what business use were you making of it in</p> <p>3 Cross Lake?</p> <p>4 A Well, I was in the business of buying and selling</p> <p>5 things, and I paid way too much when I bought it.</p> <p>6 Q How much did you pay?</p> <p>7 A I would be guessing today, but 125,000.</p> <p>8 Q Okay. And when you say you, was it Denny Hecker</p> <p>9 personally who bought it?</p> <p>10 A North State.</p> <p>11 Q And it's titled in North State, right?</p> <p>12 A Yes, it is.</p> <p>13 Q And is Bremer Bank on the title?</p> <p>14 A Bremer Bank has a UCC filing of all the assets of</p> <p>15 North State.</p> <p>16 Q Is Bremer Bank on the title?</p> <p>17 A I'm not sure.</p> <p>18 Q Okay. And this other boat, a Malibu, is that the</p> <p>19 ski boat?</p> <p>20 A Yes, it is.</p> <p>21 Q Okay. And that's a Rib; it's referred to as a</p> <p>22 Rib, R-I-B, isn't it? Does that ring any bells</p> <p>23 for you?</p> <p>24 A No.</p> <p>25 Q It doesn't --</p>
<p style="text-align: right;">Page 59</p> <p>1 Q Okay. Now, your Statement of Financial Affairs</p> <p>2 says that you're holding boats, inventory,</p> <p>3 et cetera, and it goes on after that. But what</p> <p>4 boats are you holding for North State Financial</p> <p>5 Corp.?</p> <p>6 A Two of the boats -- or three of the boats are at</p> <p>7 Cross Lake. They're under the UCC filing for</p> <p>8 Bremer Bank and titled in North State.</p> <p>9 Q And those three boats are what?</p> <p>10 A I believe there's a Cobalt, a Malibu and some</p> <p>11 kind of dingy.</p> <p>12 Q All right. Have those boats always been at Cross</p> <p>13 Lake since they were purchased?</p> <p>14 A Yes.</p> <p>15 Q All right. When was the Cobalt purchased?</p> <p>16 A Three years ago.</p> <p>17 Q All right. And are you the only one who's used</p> <p>18 that Cobalt since it was purchased?</p> <p>19 A Yes.</p> <p>20 Q And it's been at Cross Lake the whole time?</p> <p>21 A Yes.</p> <p>22 Q Have you made any attempts to sell that Cobalt?</p> <p>23 A I visited with Bremer yesterday. No.</p> <p>24 Q Okay. You've just -- It's just been yours to use</p> <p>25 personally, right?</p>	<p style="text-align: right;">Page 61</p> <p>1 A It's referred to as a Malibu.</p> <p>2 Q Okay. And when was that purchased?</p> <p>3 A September of '07, April of '08, somewhere in that</p> <p>4 time season.</p> <p>5 Q I'm sorry, I -- '07 or --</p> <p>6 A September of '07 to March of '08, April of '08.</p> <p>7 Q Okay. And it's been there at Cross Lake ever</p> <p>8 since --</p> <p>9 A Yes.</p> <p>10 Q -- you purchased it? Here, let me just show you</p> <p>11 a page from an insurance policy that I received</p> <p>12 through my request for documents. There is --</p> <p>13 There are a list of boats on here, and there's</p> <p>14 something called a 2003 Nautica Rib --</p> <p>15 A Yes.</p> <p>16 Q -- 13-foot. What's that?</p> <p>17 A It's my son's boat. It's like an inflatable kind</p> <p>18 of little boat.</p> <p>19 Q Okay. And maybe this will be the boat I'm about</p> <p>20 to describe to you. There's a boat there that</p> <p>21 looks like it's a one- or two-person boat, has a</p> <p>22 cockpit in it, has a motor in back.</p> <p>23 A It's a Mouse boat. It's a Mouse boat.</p> <p>24 Q Okay. Named after Mickey Mouse or --</p> <p>25 A It came from Disney World.</p>

<p style="text-align: right;">Page 62</p> <p>1 Q Okay. Who owns that?</p> <p>2 A My daughter.</p> <p>3 Q Who bought it?</p> <p>4 A I gave it to her two years ago.</p> <p>5 Q Okay. When did you buy it and how much did you</p> <p>6 pay for it?</p> <p>7 A The summer of '07 or '06 and paid a thousand</p> <p>8 dollars for it.</p> <p>9 Q Okay. Here, let me show you again, Mr. Hecker, a</p> <p>10 page from this insurance policy. And there's a</p> <p>11 1994 Harley Davidson on here. Who is that titled</p> <p>12 in?</p> <p>13 A North State.</p> <p>14 Q Okay. 2003 Harley Davidson VRCA?</p> <p>15 A North State.</p> <p>16 Q 2006 Polaris Outlaw?</p> <p>17 A I believe North State.</p> <p>18 Q Is that an ATV; do you know?</p> <p>19 A I believe so.</p> <p>20 Q 2006 Harley Davidson VRSCA?</p> <p>21 A I believe that's the motorcycle I gave to Erik</p> <p>22 Dove.</p> <p>23 Q Then down a little farther there's a 2007 Harley</p> <p>24 Davidson FLHR. Who is that titled in?</p> <p>25 A I'm not sure. Both of those I'm not sure.</p>	<p style="text-align: right;">Page 64</p> <p>1 then, right?</p> <p>2 A I believe so.</p> <p>3 Q Was it purchased for resale?</p> <p>4 A It was purchased under the North State line of</p> <p>5 credit but had no covenants.</p> <p>6 Q Right. Was it purchased --</p> <p>7 A It was titled in North State.</p> <p>8 Q Was it purchased for resale?</p> <p>9 A At the time, yes.</p> <p>10 Q The 2003 Harley Davidson, when was that</p> <p>11 purchased?</p> <p>12 A I'm not sure. We'll have to get the details.</p> <p>13 Q Okay. Were all of these Harleys purchased for</p> <p>14 resale?</p> <p>15 A Yes.</p> <p>16 Q Has anyone used any of those Harleys other than</p> <p>17 you and Erik Dove?</p> <p>18 A Some of them have been used for two or three</p> <p>19 years.</p> <p>20 Q The question, though, was has anyone other than</p> <p>21 you or Erik Dove ever used them?</p> <p>22 A To the best of my knowledge, no.</p> <p>23 Q Okay. What did Bremer have to say yesterday in</p> <p>24 your conversation with them? Do they want this</p> <p>25 collateral?</p>
<p style="text-align: right;">Page 63</p> <p>1 Q There's a 2007 Harley Davidson FXST right under</p> <p>2 that, right?</p> <p>3 A Yes, and I'm not sure.</p> <p>4 Q All right. Who has possession of all those</p> <p>5 motorcycles? Let's take the Erik Dove one out of</p> <p>6 the equation for a minute. The rest of them.</p> <p>7 A Three of them are in Cross Lake.</p> <p>8 Q Okay. The others, where are they?</p> <p>9 A There's one in Medina.</p> <p>10 Q At where?</p> <p>11 A Hunter.</p> <p>12 Q Okay.</p> <p>13 A And I don't know -- The other two we'll have to</p> <p>14 research.</p> <p>15 Q Okay. And the ones at Cross Lake, how long have</p> <p>16 they been at Cross Lake?</p> <p>17 A On and off for maybe the last year.</p> <p>18 Q All right. When was the '94 Harley purchased?</p> <p>19 A In '94.</p> <p>20 Q Oh, really. Was it purchased by North State</p> <p>21 back --</p> <p>22 A Yes.</p> <p>23 Q -- in 1994?</p> <p>24 A Yes.</p> <p>25 Q And you're the only one that's used it since</p>	<p style="text-align: right;">Page 65</p> <p>1 A I talked to the president, Steve Meads. And not</p> <p>2 only do they have it as collateral, they had a</p> <p>3 real estate development they took about a</p> <p>4 \$6 million loss on. And his comment to me was --</p> <p>5 I said, we're embarrassed for the loss. And he</p> <p>6 said the economy is pretty self-explanatory, with</p> <p>7 GM and Chrysler going bankrupt and the world</p> <p>8 coming to an end in the automobile industry, that</p> <p>9 they would like to facilitate sometime in August</p> <p>10 a liquidation of their collateral. They have a</p> <p>11 million five outstanding.</p> <p>12 Q Who's their attorney; do you know?</p> <p>13 A I have no idea.</p> <p>14 Q Okay. Well, just so we're clear here, based on</p> <p>15 what I'm hearing on the testimony, it doesn't</p> <p>16 sound to me like those items were held for sale</p> <p>17 in the trade; it sounds like they were held for</p> <p>18 personal use, and I believe they're property of</p> <p>19 the bankruptcy estate. And you don't need to</p> <p>20 respond to this. You're certainly welcome to --</p> <p>21 A I'd like to.</p> <p>22 Q But I'm going to communicate with Bremer Bank and</p> <p>23 tell them exactly that. But go ahead with what</p> <p>24 you were going to say, sir.</p> <p>25 MR. CUTLER: No, you don't need to.</p>

<p style="text-align: right;">Page 66</p> <p>1 We'll reserve our rights, if any, with respect to</p> <p>2 that issue.</p> <p>3 THE TRUSTEE: Sure.</p> <p>4 BY THE TRUSTEE:</p> <p>5 Q At Schedule F, and you don't really need to look</p> <p>6 at this, I see there's Inter Bank as a creditor.</p> <p>7 It says that your debt to them is personal</p> <p>8 guarantee, Sidney Holdings of Eden Valley, LLC.</p> <p>9 I mean, you're welcome to look at it, but what's</p> <p>10 Sidney Holdings of LLC?</p> <p>11 A It's a residence in Eden Valley.</p> <p>12 Q Okay. And who lives there?</p> <p>13 A My sister.</p> <p>14 Q Okay. And does she make payments on that home?</p> <p>15 A No, she doesn't.</p> <p>16 Q Okay. Who does?</p> <p>17 A I've made all the payments since it happened.</p> <p>18 Q Denny Hecker personally?</p> <p>19 A Yes.</p> <p>20 Q All right. Did Sidney Holdings ever have a bank</p> <p>21 account?</p> <p>22 A I'm not sure.</p> <p>23 Q Okay. Is there an encumbrance against that</p> <p>24 property?</p> <p>25 A The schedule shows. Yes, there is.</p>	<p style="text-align: right;">Page 68</p> <p>1 Q All right. That's the title of the document.</p> <p>2 I'm just reading it off there.</p> <p>3 A I'm not sure what it's called, but...</p> <p>4 Q Okay. Describe for me, as best you can, your</p> <p>5 understanding of what was accomplished by that</p> <p>6 agreement.</p> <p>7 A What date is that document dated?</p> <p>8 Q It says June 3rd, the day before you filed</p> <p>9 bankruptcy. It says effective June 3rd.</p> <p>10 A Okay.</p> <p>11 Q And I'm just looking for you -- from you a</p> <p>12 general description of what that restructuring</p> <p>13 accomplished.</p> <p>14 A It accomplished returning the Aspen property,</p> <p>15 which was in default, and returning the Medina</p> <p>16 property, which was in default.</p> <p>17 Q Did you own both of those personally?</p> <p>18 A No.</p> <p>19 Q Okay. And what did you get in return for that?</p> <p>20 A Well, they forbore my personal guarantee on</p> <p>21 both, and they gave me the opportunity to have</p> <p>22 Cross Lake as the homestead.</p> <p>23 Q All right. Are you making any payments on the</p> <p>24 Cross Lake homestead?</p> <p>25 A I'm paying the taxes and utilities.</p>
<p style="text-align: right;">Page 67</p> <p>1 Q How much equity do you think there is in that</p> <p>2 property?</p> <p>3 A I don't believe there's any.</p> <p>4 Q Okay. How long has the mortgage been there, sir?</p> <p>5 A Since the house was purchased.</p> <p>6 Q Okay. Now -- Oh, and I need to state for the</p> <p>7 record, I have received a copy of a 2007 tax</p> <p>8 return from Mr. Hecker. Is that a true and</p> <p>9 correct copy of the most recent return you filed,</p> <p>10 sir?</p> <p>11 A You received it from us?</p> <p>12 Q It came through your attorney, Mr. Cutler.</p> <p>13 A I believe so.</p> <p>14 Q And you're on extension for 2008; is that right?</p> <p>15 A That's correct.</p> <p>16 Q All right. And I also received a copy of a 2006</p> <p>17 return. It's accurate to say that your 2007</p> <p>18 return, and I can show you this if you want to,</p> <p>19 for adjusted gross income it was a negative</p> <p>20 28 million or so, right?</p> <p>21 A Yes.</p> <p>22 Q Okay. Mr. Hecker, there was -- shortly before</p> <p>23 you filed bankruptcy there was what's called a</p> <p>24 restructuring agreement with TCF Bank, correct?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 69</p> <p>1 Q Did this restructuring agreement effectively</p> <p>2 provide that all you have to pay until the note</p> <p>3 is payable in full in four years is real estate</p> <p>4 taxes?</p> <p>5 A That's incorrect.</p> <p>6 Q Well, tell me what it did, then.</p> <p>7 A For a period of twelve months, I believe, it was</p> <p>8 no interest or principal, but the principal and</p> <p>9 interest is added onto the end of the note.</p> <p>10 Q Yep. Do you have to pay any interest prior to</p> <p>11 the note coming due in four years?</p> <p>12 A Yes.</p> <p>13 Q Okay. Do you start making interest payments at</p> <p>14 some point?</p> <p>15 A Yes.</p> <p>16 Q When is that?</p> <p>17 A At the end of twelve months.</p> <p>18 Q Okay. This restructuring agreement also in the</p> <p>19 whole package, there was -- there were also a</p> <p>20 couple of leases, correct?</p> <p>21 A They leased back the Medina property and the</p> <p>22 Aspen property --</p> <p>23 Q All right.</p> <p>24 A -- for a short period of time.</p> <p>25 Q All right. So there was the Medina and the Aspen</p>

<p style="text-align: right;">Page 70</p> <p>1 leases, and then there were leases at Cross Lake,  2 also, right?  3 A There are leases at Cross Lake, yes.  4 Q All right. And I'm showing you one here, which  5 is between Jacob Holdings of Cross Lake and  6 Family Holdings of Minnesota.  7 A Yes.  8 Q What's Jacob Holdings of Cross Lake, a business  9 entity?  10 A It's an LLC, yes.  11 Q Okay. And who owns the interest in that LLC?  12 A I believe I do.  13 Q Okay. Family Holdings of Minnesota, what's that?  14 A It's the individual who is renting the property.  15 Q And who's that?  16 A His name is William Plumber.  17 Q Okay. Is Mr. Plumber a long-time associate of  18 yours?  19 A Yes, he is.  20 Q All right. This residential lease right down at  21 the bottom of the page I'm showing you, which is  22 paragraph 4, calls for an immediate payment of  23 \$24,000 in rent. Did that get paid?  24 A We amended that. It did not get paid.  25 Q All right. When did you amend it?</p>	<p style="text-align: right;">Page 72</p> <p>1 A Yes.  2 Q All right. Who is Bill Prohovsky?  3 A My father-in-law.  4 Q Okay. And who is Dan Aldrich?  5 A My son-in-law.  6 Q All right. And this lease has the same  7 provision, close to the same provision in  8 paragraph 4 about an immediate payment of \$24,000  9 in rent.  10 A Yes, it does.  11 Q Did that get paid?  12 A I'd have to check.  13 Q Do you recall anything about getting paid?  14 A I don't recall at this time.  15 Q Okay. It has the same provision for a security  16 deposit, \$2,000. Did that get paid?  17 A I believe it did.  18 Q Okay. And where would that money have gone?  19 A Deposited in one of the accounts or cash.  20 Q Okay. Have any lease payments been made on that  21 lease?  22 A I'd have to research to find out.  23 Q What would you research?  24 A To check and see if any of the deposits came into  25 the bank.</p>
<p style="text-align: right;">Page 71</p> <p>1 A I don't know. I'd have to look.  2 Q Did you amend it after you filed bankruptcy?  3 A I don't know.  4 Q I'm not asking you for a date, I'm asking you --  5 A I said I don't know.  6 Q -- before or after? The security deposit of  7 \$2,000 called for by this same lease in  8 paragraph 6, did that ever get paid?  9 A Can I just see the document?  10 Q Sure. It's right here.  11 A Yes, I believe it did.  12 Q And where did that money go?  13 A Either to one of my accounts or it was in cash.  14 I don't recall.  15 Q All right. So is it accurate to say that no  16 lease payments have been made on this lease yet?  17 A I've got to check. I'm not sure.  18 Q And there was another lease of the other guest  19 house --  20 A Yes.  21 Q -- for the Cross Lake property?  22 A Yes.  23 Q And I'm showing you that lease here. And that's  24 between Jacob Holdings of Cross Lake, Bill  25 Prohovsky and Dan Aldrich, correct?</p>	<p style="text-align: right;">Page 73</p> <p>1 Q Where would the deposits have been made?  2 A Who owns the property?  3 Q I'm asking you where the deposits --  4 A I don't have the document in front of me. I'm  5 not sure who --  6 MR. MOHRMAN: Do you want to see the  7 document again?  8 THE DEBTOR: Yeah.  9 BY THE TRUSTEE:  10 Q Jacob Holdings.  11 A It would either be Jacob Holdings or my personal  12 accounts.  13 Q Does Jacob Holdings have a bank account?  14 A Yes, it does.  15 Q Where is that?  16 A I don't know. We can find that for you.  17 Q Who's the signatory on the account?  18 A Mr. Seaver, we had a hundred bank accounts.  19 Q Yeah. I'm --  20 A I'm not sure who is the only signer or who signed  21 and made the deposits. We can find that  22 information.  23 Q Okay. And you'll do that, right?  24 A Yes.  25 Q Okay. Is Mr. Aldrich employed?</p>



<p style="text-align: right;">Page 74</p> <p>1 A He has a company.</p> <p>2 Q What's the name of the company?</p> <p>3 A I'm at a loss for the name.</p> <p>4 Q Okay. Mr. Hecker, I sent a letter to your</p> <p>5 attorney just recently asking, among other</p> <p>6 things, that you specify what items of personal</p> <p>7 property you're claiming as exempt as household</p> <p>8 goods. And I'm not going to ask you here today</p> <p>9 what those are, but I just want to make certain</p> <p>10 that you knew that I'm asking you to tell me</p> <p>11 exactly what it is that you want to claim as</p> <p>12 exempt in whatever homes you want to. You'll do</p> <p>13 that, right?</p> <p>14 A Yes.</p> <p>15 Q Okay. I received a letter from Mr. Cutler dated</p> <p>16 July 13. I'm sorry. It's not from Mr. Cutler,</p> <p>17 it's from Doug Nusbaum at his firm. And he says</p> <p>18 various things, but there is a list attached to</p> <p>19 it in which there's a list of items that were</p> <p>20 gifted to your children, he indicates. Are there</p> <p>21 any documents to verify those gifts?</p> <p>22 A First of all, they were registered in my name</p> <p>23 because the children are 14 and 8. So I wouldn't</p> <p>24 have any document between myself and an</p> <p>25 8-year-old or a 14-year-old.</p>	<p style="text-align: right;">Page 76</p> <p>1 condo?</p> <p>2 BY THE TRUSTEE:</p> <p>3 Q Yeah. Let me rephrase it. Is the only thing</p> <p>4 that Jacob Holdings of Ventanas, LLC, exists for</p> <p>5 is to hold that property?</p> <p>6 A Yes.</p> <p>7 Q Okay. Why did you put it in the name of that LLC</p> <p>8 rather than in your name personally?</p> <p>9 A Can I just ask a question just for a minute?</p> <p>10 (Discussion held off the record between</p> <p>11 the Debtor and his attorney.)</p> <p>12 THE DEBTOR: All of the entities that I</p> <p>13 own were in LLCs because I had a premarital</p> <p>14 agreement that over the period of time,</p> <p>15 everything that I acquired would be in the LLCs</p> <p>16 and my spouse wouldn't be -- have any of the</p> <p>17 upside or any of the downside.</p> <p>18 BY THE TRUSTEE:</p> <p>19 Q Okay. So if it had been in your name personally</p> <p>20 -- And I'll just stick to this one example. So</p> <p>21 if Cabos had been in your name personally, your</p> <p>22 understanding is it wouldn't have been protected</p> <p>23 by the antenuptial agreement?</p> <p>24 A I believe so.</p> <p>25 Q Okay. Who paid the mortgage on the Cabos</p>
<p style="text-align: right;">Page 75</p> <p>1 Q Sir, my question is, are there any documents to</p> <p>2 verify those gifts to them?</p> <p>3 A No.</p> <p>4 Q Okay. When was the property in Cabos purchased</p> <p>5 Mr. Hecker?</p> <p>6 A Approximately three to five years ago.</p> <p>7 Q Okay. What was the original purchase price?</p> <p>8 A I believe a million two.</p> <p>9 Q Okay. And where did the funds come from to</p> <p>10 purchase it?</p> <p>11 A I believe Wells Fargo.</p> <p>12 Q Okay. Wells Fargo didn't finance the entire</p> <p>13 million dollar purchase, though, did it?</p> <p>14 A No.</p> <p>15 Q Okay. Did Denny Hecker also pay some money</p> <p>16 towards the purchase?</p> <p>17 A Yes.</p> <p>18 Q Okay. Does Jacob Holdings of Ventanas, LLC, have</p> <p>19 a bank account?</p> <p>20 A I believe they do.</p> <p>21 Q Where is that?</p> <p>22 A We can provide that for you.</p> <p>23 Q Okay. Does Jacob Holdings of Ventanas have any</p> <p>24 business? Do you understand my question?</p> <p>25 MR. CUTLER: Other than owning the</p>	<p style="text-align: right;">Page 77</p> <p>1 property, was it you personally? Well, I guess</p> <p>2 I'm assuming stuff that may not be correct. Is</p> <p>3 there a mortgage on it?</p> <p>4 A There's no mortgage.</p> <p>5 Q Okay. Who has paid any related expenses for the</p> <p>6 Cabos property? Was it you, Denny Hecker?</p> <p>7 A It was me probably through Las Ventanas, LLC</p> <p>8 Q What source of revenue did Las Ventanas, LLC</p> <p>9 have other --</p> <p>10 A Zero.</p> <p>11 Q Just Denny Hecker?</p> <p>12 A Yes.</p> <p>13 Q Okay. Here, let me show you something that's in</p> <p>14 your Schedule C. I'm sorry. It's in the</p> <p>15 Statement of Financial Affairs. There's a</p> <p>16 transfer to Jacob Holdings of Las Ventanas on 7/1</p> <p>17 of 2008 of \$174,000. Is that related to the</p> <p>18 Cabos property or is that something else?</p> <p>19 A I believe it would be the Cabos property.</p> <p>20 Q Okay. Do you know what that would be for?</p> <p>21 A I have no idea. We'd have to research it and</p> <p>22 give you the documents.</p> <p>23 Q Okay. Have you driven a Mazeratti in the last</p> <p>24 two years?</p> <p>25 A No.</p>

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<p>1 Q Have you had one in your possession in the last 2 two years? 3 A No. 4 Q Has there been one at your Cross Lake home in the 5 last two years? 6 A No. 7 Q Have you driven a Bentley in the last two years? 8 A Yes. 9 Q When was that, the last time you drove it? 10 A I believe the last time I drove it might have 11 been 60 days ago. 12 Q Who owns that Bentley? 13 A US Bank. 14 Q Was it a lease? 15 A It was originally titled to Advantage Rent-A-Car 16 and it's a US Bank financed car. It's being 17 turned back. 18 Q Okay. So when you say US Bank owns it, you mean 19 they have the loan on it? 20 A Yes. 21 Q Do you know anything about a motor home being 22 sold to the McCarthy Auto Dealership? 23 A Yes. 24 Q Tell me what you know about that. 25 A It was purchased three or four years ago for</p>	<p>1 Q Okay. 2 A We had a commission agreement. 3 Q Okay. Tell me about that. What's the commission 4 agreement? 5 A We would receive commission based upon sales of 6 products. 7 Q When you say we, who does that mean? 8 A We, the company. 9 Q Not Denny Hecker personally, or is it? 10 A I don't believe so. 11 Q Okay. 12 A There's documents. There's an agreement that we 13 did for you. 14 Q Is there some large holdback that's being held by 15 somebody in Florida? 16 A Well, the reinsurance company is holding back to 17 offset the claims. 18 Q Okay. And that's Moran, right? 19 A Yes. 20 Q All right. And you have that listed in the 21 schedules, right, the debt to Moran? 22 A Yes. 23 Q Is that a personal debt or is that guaranteed? 24 A It's guaranteed by myself. 25 THE TRUSTEE: Okay. Well, let's just</p>
Page 79	Page 81
<p>1 approximately 800,000, and the company that owned 2 it sold it for 300,000 to McCarthy. 3 Q Okay. And that -- 4 A There was 300,000 worth of debt on it. 5 Q I'm sorry? 6 A There was 300,000 worth of debt on it. 7 Q Okay. So it was sold for the exact amount that 8 was owed? 9 A About. 10 Q About. Okay. And that was in April, right? 11 A Yes. 12 Q What company was it titled in? 13 A Mr. Seaver, I don't -- 14 Q Just one of your companies? 15 A Yes. 16 Q Okay. And Denny Hecker didn't receive anything 17 from that, right? 18 A No. 19 Q What's Fidelity Warranty Services? 20 A It's a warranty company that provides warranties 21 for people who buy cars. 22 Q Do you own an interest in that entity? 23 A No, I don't believe so. 24 Q Did you at one time? 25 A I don't believe so.</p>	<p>1 take a short break here, and by short I mean ten 2 minutes. If you guys want more, that's fine, but 3 I'm just thinking a short break. And then I'm 4 going to open the floor up to others here 5 shortly. I have more questions, but I want to 6 give other people a chance to ask what they 7 want. 8 (Break taken.) 9 CONTINUED EXAMINATION 10 BY THE TRUSTEE: 11 Q Before I open it up to others, I do have a few 12 more questions that I'm going to ask here. The 13 first one is -- And you understand, Mr. Hecker, 14 that you're under oath, still under oath, right? 15 A Yes. 16 Q All right. Here, let me show you an MLS 17 listing. It's for a property at 34515 Happy 18 Landing Road in Cross Lake. Are you familiar 19 with that property? 20 A Yes. 21 Q All right. Tell me about that property. 22 A It's a vacant lot. 23 Q Okay. Is there a boat lift there? 24 A I have no idea. 25 Q Okay. Who owned -- Or who owns that lot? Was it</p>

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<p>1 titled in one of the business entities?</p> <p>2 A I believe so.</p> <p>3 Q All right. What's the status of that lot right</p> <p>4 now; what's happening with it, other than being</p> <p>5 for sale?</p> <p>6 A It's being foreclosed by Riverwood Bank.</p> <p>7 Q And does Riverwood Bank have a mortgage on it?</p> <p>8 A Yes, they do.</p> <p>9 Q When did they get that mortgage?</p> <p>10 A I'm not exactly sure.</p> <p>11 Q Was it within 90 days of your filing?</p> <p>12 A No.</p> <p>13 Q Was there some sort of transaction where the LLCs</p> <p>14 got a lower interest rate from some banks but, in</p> <p>15 exchange, gave a mortgage on that property before</p> <p>16 the bankruptcy was filed?</p> <p>17 A I have no idea.</p> <p>18 Q That doesn't ring any bells with you?</p> <p>19 A No.</p> <p>20 Q All right. Mr. Hecker, you have been sued in</p> <p>21 this bankruptcy case by Chrysler Financial</p> <p>22 Services, correct?</p> <p>23 A Yes.</p> <p>24 Q And I'm just going to -- I printed a copy of the</p> <p>25 complaint this morning without all of the</p>	<p>1 States Bankruptcy Court for the District of New</p> <p>2 Jersey, In Re: 2435 Plainfield Avenue,</p> <p>3 Incorporated. The citation is 223 Bankruptcy</p> <p>4 Reporter 440, 1998.</p> <p>5 THE TRUSTEE: Do you have --</p> <p>6 MR. MOHRMAN: If I could read to you</p> <p>7 from the case it says, the majority of courts</p> <p>8 that have addressed the issue have prohibited a</p> <p>9 Rule 2004 exam of parties involved in or affected</p> <p>10 by an adversary proceeding.</p> <p>11 THE TRUSTEE: Stop right there,</p> <p>12 Mr. Mohrman. Are you under the impression that</p> <p>13 this is a Rule 2004 examination?</p> <p>14 MR. MOHRMAN: I think under other case</p> <p>15 law --</p> <p>16 THE TRUSTEE: Are you under the</p> <p>17 impression that this is a Rule 2004 examination?</p> <p>18 MR. MOHRMAN: I'm sorry. I was going</p> <p>19 to answer. It is my understanding that the</p> <p>20 parameters of the Rule 2004 examination and the</p> <p>21 examination of Debtor at the first Meeting of</p> <p>22 Creditors is the same.</p> <p>23 THE TRUSTEE: Where do you get that?</p> <p>24 MR. MOHRMAN: That's my understanding</p> <p>25 of the rules.</p>
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<p>1 exhibits, and that's a copy of the complaint. I</p> <p>2 want to draw your attention specifically to some</p> <p>3 allegations that are made in that complaint</p> <p>4 starting at page 5, paragraphs 17 through 19.</p> <p>5 Would you just take a minute or however long it</p> <p>6 takes to read through those paragraphs? I don't</p> <p>7 want you to read them out loud. I just want you</p> <p>8 to read through them.</p> <p>9 MR. MOHRMAN: Before Mr. Hecker reviews</p> <p>10 these paragraphs, is it your intention to ask</p> <p>11 Mr. Hecker questions regarding the allegations in</p> <p>12 the adversary complaint?</p> <p>13 THE TRUSTEE: It is.</p> <p>14 MR. MOHRMAN: Under the bankruptcy</p> <p>15 rules, once an adversary proceeding is commenced,</p> <p>16 any questions related to the adversary complaint</p> <p>17 and any discovery regarding the adversary</p> <p>18 complaint must take place pursuant to the Federal</p> <p>19 Rules of Civil Procedure.</p> <p>20 THE TRUSTEE: Really. What bankruptcy</p> <p>21 rule is that, sir?</p> <p>22 MR. MOHRMAN: It's pursuant to a</p> <p>23 case --</p> <p>24 THE TRUSTEE: But decided by the --</p> <p>25 MR. MOHRMAN: -- out of the United</p>	<p>1 THE TRUSTEE: Understanding based on</p> <p>2 what rule?</p> <p>3 MR. MOHRMAN: That's my understanding</p> <p>4 under the bankruptcy law.</p> <p>5 THE TRUSTEE: What law?</p> <p>6 MR. MOHRMAN: Well, you interrupted me</p> <p>7 earlier, so if I can continue --</p> <p>8 THE TRUSTEE: Does it mention</p> <p>9 Section 341 of the bankruptcy code at all in that</p> <p>10 case?</p> <p>11 MR. MOHRMAN: There are --</p> <p>12 THE TRUSTEE: Does it?</p> <p>13 MR. MOHRMAN: Sir, I'm not being</p> <p>14 examined here.</p> <p>15 THE TRUSTEE: Well, you're offering</p> <p>16 some testimony here.</p> <p>17 MR. MOHRMAN: I am not offering any</p> <p>18 testimony, sir. I'm an attorney for the debtor,</p> <p>19 and I would ask, as a courtesy, that you allow me</p> <p>20 to complete what I'm going to say. And then if</p> <p>21 you want to say something, you can do that. As</p> <p>22 you -- the court reporter told Mr. Hecker</p> <p>23 earlier, it's difficult for her to take down</p> <p>24 things when two people are talking at once.</p> <p>25 THE TRUSTEE: Okay. Finish what you're</p>

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<p>1 going to say.</p> <p>2 MR. MOHRMAN: Thank you. The case law</p> <p>3 that's cited in this case, and there's a number</p> <p>4 of string cites, make it very clear that once an</p> <p>5 adversary proceeding is commenced, discovery may</p> <p>6 be had only pursuant to the discovery provisions</p> <p>7 of the Federal Rules of Civil Procedure.</p> <p>8 So based on that, I am not going to</p> <p>9 allow Mr. Hecker to answer questions related to</p> <p>10 the complaint that's pending.</p> <p>11 THE TRUSTEE: Mr. Cutler, you're the</p> <p>12 bankruptcy attorney here. Do you think this</p> <p>13 assessment is accurate?</p> <p>14 MR. CUTLER: I haven't made an</p> <p>15 independent judgment. I defer to Mr. Mohrman,</p> <p>16 who's representing Mr. Hecker in connection with</p> <p>17 the adversary proceeding Mr. Hecker has.</p> <p>18 THE TRUSTEE: Right, but you're</p> <p>19 representing here at the 341, right?</p> <p>20 MR. CUTLER: Well, not having heard</p> <p>21 your questions, it's a little hard to determine</p> <p>22 if the debtor should respond to them or not. But</p> <p>23 the concern, of course, is that neither I nor</p> <p>24 Mr. Mohrman have had adequate time to review the</p> <p>25 pleading and the exhibits, which are voluminous.</p>	<p>1 question, to review the complaint.</p> <p>2 THE TRUSTEE: No, I'm telling him to</p> <p>3 review the complaint. When I get to my</p> <p>4 questions, you can assert what it is that you're</p> <p>5 asserting here and we'll let Judge Kressel decide</p> <p>6 it.</p> <p>7 MR. MOHRMAN: Absolutely.</p> <p>8 BY THE TRUSTEE:</p> <p>9 Q Have you read those paragraphs yet, Mr. Hecker?</p> <p>10 MR. MOHRMAN: You can answer that.</p> <p>11 THE DEBTOR: Yes.</p> <p>12 BY THE TRUSTEE:</p> <p>13 Q All right. Paragraph 16 says, among other</p> <p>14 things, that you personally presented to Chrysler</p> <p>15 Financial a letter dated November 7, 2007, a copy</p> <p>16 of which is attached as Exhibit E. Did you do</p> <p>17 that?</p> <p>18 MR. MOHRMAN: Again, I'm going to</p> <p>19 instruct him not to answer that question.</p> <p>20 There's an adversary complaint pending --</p> <p>21 THE TRUSTEE: All right. You've done</p> <p>22 this. I'm asking him questions. I understand</p> <p>23 what you're saying.</p> <p>24 MR. MOHRMAN: Okay.</p> <p>25 BY THE TRUSTEE:</p>
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<p>1 The allegations are serious. There are rules of</p> <p>2 evidence that will apply and rules of civil</p> <p>3 procedure that will apply in that proceeding.</p> <p>4 And the debtor is at a serious disadvantage here</p> <p>5 depending on the scope and the nature of the</p> <p>6 questions. We have a lot of concern about that,</p> <p>7 that we not jeopardize any defenses that</p> <p>8 Mr. Hecker could present in connection with</p> <p>9 that.</p> <p>10 BY THE TRUSTEE:</p> <p>11 Q All right. Have you read through those</p> <p>12 paragraphs yet, Mr. Hecker?</p> <p>13 MR. MOHRMAN: Again --</p> <p>14 THE TRUSTEE: Mr. Mohrman, I'm not</p> <p>15 talking to you. I'm talking to Mr. Hecker.</p> <p>16 MR. MOHRMAN: -- I'm going to instruct</p> <p>17 Mr. Hecker not to answer questions related to the</p> <p>18 adversary complaint that's been filed, because</p> <p>19 any examination regarding those allegations has</p> <p>20 to be conducted in the case under the Federal</p> <p>21 Rules of Civil Procedure.</p> <p>22 THE TRUSTEE: Do you think you might</p> <p>23 want to wait until I actually ask him a question</p> <p>24 before you do that?</p> <p>25 MR. MOHRMAN: Well, you asked him a</p>	<p>1 Q Mr. Hecker, let me show you Exhibit F from the</p> <p>2 complaint. Exhibit F from the complaint is a</p> <p>3 letter on Hyundai letterhead that talks in the</p> <p>4 first paragraph about Hyundai agreeing to</p> <p>5 repurchase 4,855 vehicles from Walden Fleet</p> <p>6 Services after they were purchased. There's a</p> <p>7 signature on a page of this. Is that your</p> <p>8 signature?</p> <p>9 MR. MOHRMAN: Again, I'm instructing</p> <p>10 Mr. Hecker not to answer that question. That</p> <p>11 question is directed directly at allegations that</p> <p>12 are contained in the adversary complaint that is</p> <p>13 currently pending in this bankruptcy court.</p> <p>14 THE TRUSTEE: So you're not going to</p> <p>15 let him tell me whether that's his signature --</p> <p>16 MR. MOHRMAN: That's correct --</p> <p>17 THE TRUSTEE: -- based on that New</p> <p>18 Jersey case?</p> <p>19 MR. MOHRMAN: -- because I'm concerned</p> <p>20 that you'll take the position that if I allow him</p> <p>21 to answer questions regarding anything related to</p> <p>22 the complaint, that he has waived any rights he</p> <p>23 has under these cases.</p> <p>24 THE TRUSTEE: Any rights he has under</p> <p>25 that New Jersey bankruptcy case.</p>

<p style="text-align: right;">Page 90</p> <p>1 BY THE TRUSTEE:</p> <p>2 Q Look at this letter, if you would, Mr. Hecker.</p> <p>3 Did you cause any alteration to be made in the</p> <p>4 original letter from Hyundai Financial?</p> <p>5 MR. MOHRMAN: Again, I instruct</p> <p>6 Mr. Hecker not to answer that question, because</p> <p>7 that question is directly related to the</p> <p>8 allegations that are made in the adversary</p> <p>9 complaint.</p> <p>10 THE TRUSTEE: Also directly related to</p> <p>11 financial matters in this bankruptcy case,</p> <p>12 Mr. Mohrman, which I have an obligation to</p> <p>13 investigate.</p> <p>14 MR. MOHRMAN: I understand that. And</p> <p>15 if you look at the case law that I researched,</p> <p>16 the Court specifically discussed the tension</p> <p>17 between the examination that takes place here and</p> <p>18 what happens once an adversary complaint is</p> <p>19 filed.</p> <p>20 THE TRUSTEE: All right.</p> <p>21 MR. MOHRMAN: And the way the courts</p> <p>22 have come down on that -- If I may finish, sir,</p> <p>23 the way the courts have come down on that, is</p> <p>24 because the courts have stated that this</p> <p>25 examination is somewhat akin to a fishing</p>	<p style="text-align: right;">Page 92</p> <p>1 at the Eighth Circuit level or at the District</p> <p>2 Court level. But I'm sure, as you're well aware,</p> <p>3 the bankruptcy court here in Minnesota will rely</p> <p>4 on bankruptcy court decisions from other</p> <p>5 jurisdictions. And from what I just read to you</p> <p>6 from the New Jersey decision, it talked about the</p> <p>7 majority of other courts.</p> <p>8 BY THE TRUSTEE:</p> <p>9 Q All right. Coming back to this adversary</p> <p>10 complaint, Mr. Hecker, did you ever alter a</p> <p>11 letter from Hyundai Financial before presenting</p> <p>12 it to Chrysler Financial?</p> <p>13 MR. MOHRMAN: I'm going to instruct you</p> <p>14 not to answer that question, Mr. Hecker.</p> <p>15 THE TRUSTEE: All right. Well, we'll</p> <p>16 see what the judge in this case has to say about</p> <p>17 your instructions, Mr. Mohrman.</p> <p>18 All right. I'm going to open it up now</p> <p>19 for questions from other people. And those of</p> <p>20 you who have --</p> <p>21 MR. CUTLER: Mr. Seaver, are you going</p> <p>22 to open the floor up to creditors to ask</p> <p>23 questions --</p> <p>24 THE TRUSTEE: Yes.</p> <p>25 MR. CUTLER: -- or anybody present?</p>
<p style="text-align: right;">Page 91</p> <p>1 expedition but that once an adversary complaint</p> <p>2 is filed, that all parties in the case are</p> <p>3 protected by the discovery rules, that the</p> <p>4 discovery rules then apply once an adversary</p> <p>5 proceeding is commenced. And that is --</p> <p>6 THE TRUSTEE: Mr. Mohrman, you can stop</p> <p>7 the speech, please. Do you have any Eighth</p> <p>8 Circuit law that supports this position of</p> <p>9 yours?</p> <p>10 MR. MOHRMAN: From the research --</p> <p>11 THE TRUSTEE: Do you have any?</p> <p>12 MR. MOHRMAN: Sir, I, again, would</p> <p>13 request that you please not interrupt me.</p> <p>14 THE TRUSTEE: It's a "yes" or "no"</p> <p>15 answer.</p> <p>16 MR. MOHRMAN: And, again, that might be</p> <p>17 okay to say that to somebody you're examining</p> <p>18 here, but I'm not under oath and I'm not -- I'm</p> <p>19 an attorney.</p> <p>20 THE TRUSTEE: Okay. Then I'm going to</p> <p>21 have you stop testifying.</p> <p>22 MR. MOHRMAN: I'm not testifying, sir.</p> <p>23 And I'm going to put my statement on the record.</p> <p>24 My research showed yesterday -- I couldn't find</p> <p>25 any Eighth Circuit authority on the issue, either</p>	<p style="text-align: right;">Page 93</p> <p>1 THE TRUSTEE: Well, that's a good</p> <p>2 distinction, Mr. Cutler.</p> <p>3 THE TRUSTEE: First of all, people who</p> <p>4 have questions, just raise your hands. Give me</p> <p>5 an idea of how many people we might be talking</p> <p>6 about here. One.</p> <p>7 Okay. The IRS has some questions here,</p> <p>8 so let's start with them.</p> <p>9 Good point, Mr. Cutler. We'll come</p> <p>10 back to it if a need to be arises.</p> <p>11 MR. MOHRMAN: We would ask, Mr. Seaver,</p> <p>12 that anybody who is asking questions identify who</p> <p>13 they are and --</p> <p>14 THE TRUSTEE: Sure.</p> <p>15 MR. MOHRMAN: -- whether or not they're</p> <p>16 a creditor in the bankruptcy case.</p> <p>17 THE TRUSTEE: And would you identify</p> <p>18 yourself, sir?</p> <p>19 MR. CLIFTON: Sure. Rich Clifton with</p> <p>20 the Internal Revenue Service. The Internal</p> <p>21 Revenue Service is a creditor in this case with</p> <p>22 Mr. Hecker, based on tax liens that we have</p> <p>23 filed.</p> <p>24 THE TRUSTEE: Go ahead.</p> <p>25</p>

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<p>1 EXAMINATION</p> <p>2 BY MR. CLIFTON:</p> <p>3 Q I want to start with some real property</p> <p>4 questions. I think some of these have been</p> <p>5 answered and maybe clarify some of them. The</p> <p>6 property at 1615 Northridge Drive, your value on</p> <p>7 your schedules was a million one. How did you</p> <p>8 arrive at that?</p> <p>9 A We arrived at that as a general market condition</p> <p>10 value.</p> <p>11 Q Did you check to see whether it was assessed that</p> <p>12 by the county?</p> <p>13 A I think we looked at more appropriate sales in</p> <p>14 the neighborhood.</p> <p>15 Q Well, the county has it at 1.8 million, so how do</p> <p>16 you account for a \$700,000 difference?</p> <p>17 MR. CUTLER: Do you want him to explain</p> <p>18 why the county has it assessed at 1.8 million?</p> <p>19 BY MR. CLIFTON:</p> <p>20 Q How did you come up with 1.1 compared to that?</p> <p>21 MR. CUTLER: He just told you.</p> <p>22 MR. CLIFTON: More specifically?</p> <p>23 MR. CUTLER: Than what he told you?</p> <p>24 BY MR. CLIFTON:</p> <p>25 Q Yeah. Who did you talk to to come up with that</p>	<p>1 A She does.</p> <p>2 Q Okay. Have you ever?</p> <p>3 A No, I don't believe I have.</p> <p>4 Q Do you know who the mortgage is with?</p> <p>5 MR. CUTLER: It should be on</p> <p>6 Schedule D.</p> <p>7 BY MR. CLIFTON:</p> <p>8 Q Okay. The Cross Lake properties, were those ever</p> <p>9 owned by any company or individual that you're a</p> <p>10 part of or related to prior to the Jacob Holdings</p> <p>11 showing as the title holder of those properties?</p> <p>12 A I don't believe so.</p> <p>13 Q No?</p> <p>14 A I don't believe so.</p> <p>15 MR. CLIFTON: Okay. I don't recall.</p> <p>16 Did we talk about Transcend Communications</p> <p>17 earlier? Randy, do you recall?</p> <p>18 THE TRUSTEE: I didn't ask him about</p> <p>19 Transcend Communications.</p> <p>20 BY MR. CLIFTON:</p> <p>21 Q Okay. You show a two-and-a-half million</p> <p>22 dollar --</p> <p>23 MR. CUTLER: Mr. Clifton, the lender on</p> <p>24 13905 53rd Avenue North, Apartment 1 is listed in</p> <p>25 Schedule D as Washington Mutual Bank.</p>
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<p>1 value?</p> <p>2 THE TRUSTEE: Just to help you a little</p> <p>3 bit, these are Mr. Cutler's. Those are his</p> <p>4 original copies. I believe those are the value</p> <p>5 opinions from a real estate company in Cross</p> <p>6 Lake.</p> <p>7 MR. CLIFTON: Okay.</p> <p>8 BY MR. CLIFTON:</p> <p>9 Q So the 1.1, who did you talk to to get 1.1?</p> <p>10 A We looked at comps. in the neighborhood and came</p> <p>11 up with that value.</p> <p>12 Q And did you have access to those comps. yourself?</p> <p>13 A They're on MLS.</p> <p>14 Q Okay. So it's MLS you're using. The condo at</p> <p>15 53rd Avenue in Plymouth that you jointly own with</p> <p>16 Kelly Hecker, that's your daughter, correct?</p> <p>17 A It's a town house.</p> <p>18 Q Okay. Do you jointly own that with Kelly?</p> <p>19 A I cosigned for her, yes.</p> <p>20 Q And the two of you have always been the co-owners</p> <p>21 of that property?</p> <p>22 A I believe so.</p> <p>23 Q And is there a mortgage on that property?</p> <p>24 A Yes, there is.</p> <p>25 Q And who pays that?</p>	<p>1 MR. CLIFTON: Okay.</p> <p>2 MR. CUTLER: Sorry to interrupt.</p> <p>3 MR. CLIFTON: That's fine.</p> <p>4 BY MR. CLIFTON:</p> <p>5 Q A question regarding Transcend Communications,</p> <p>6 Incorporated. Is that one of your companies?</p> <p>7 A I have an interest in the company.</p> <p>8 Q What is your interest?</p> <p>9 A I'm not sure.</p> <p>10 MR. CUTLER: It should be reflected in</p> <p>11 the schedules in Exhibit B of the attachments.</p> <p>12 You have a stock ownership interest in it?</p> <p>13 THE DEBTOR: Yes.</p> <p>14 BY MR. CLIFTON:</p> <p>15 Q Do you know what percent your stock ownership</p> <p>16 is?</p> <p>17 A Look in the schedule.</p> <p>18 MR. CUTLER: Is it less than</p> <p>19 50 percent, Mr. Hecker?</p> <p>20 THE DEBTOR: I'm not sure.</p> <p>21 MR. CUTLER: There's an attachment to</p> <p>22 Exhibit -- to Schedule B, Exhibit B-13 that has a</p> <p>23 listing of the various ownership interests.</p> <p>24 MR. CLIFTON: Right, yeah.</p> <p>25 MR. CUTLER: And it should be reflected</p>

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<p>1 in that schedule.</p> <p>2 MR. CLIFTON: Transcend is listed</p> <p>3 there?</p> <p>4 MR. CUTLER: Let me check here for you</p> <p>5 if you just give me a second.</p> <p>6 MR. CLIFTON: Sure.</p> <p>7 MR. CUTLER: Yes, it's listed.</p> <p>8 BY MR. CLIFTON:</p> <p>9 Q Okay. Is that a privately-held company?</p> <p>10 A Yes, it is.</p> <p>11 Q Okay. And what's your interest, ownership?</p> <p>12 MR. CUTLER: It's listed in</p> <p>13 Exhibit B-13 at 54 percent. There's a separate</p> <p>14 Transcend Holding Company, LLC, listed in the</p> <p>15 exhibit as well.</p> <p>16 MR. CLIFTON: That's a separate</p> <p>17 company, though?</p> <p>18 MR. CUTLER: It appears to be.</p> <p>19 BY MR. CLIFTON:</p> <p>20 Q Okay. You listed your 53-foot Hatteras boat and</p> <p>21 stated that that had been repossessed or turned</p> <p>22 back in to the lienholder May of this year?</p> <p>23 A Yes.</p> <p>24 Q Do you know where that boat is?</p> <p>25 A That boat is in Bayport, Minnesota at Bayport</p>	<p>1 children's.</p> <p>2 THE TRUSTEE: Who paid for them, you?</p> <p>3 THE DEBTOR: I believe it came from one</p> <p>4 of my accounts.</p> <p>5 THE TRUSTEE: Okay. Go ahead,</p> <p>6 Mr. Clifton.</p> <p>7 BY MR. CLIFTON:</p> <p>8 Q Came from what?</p> <p>9 A Came from my accounts.</p> <p>10 Q Okay. Where are these dogs located now, where do</p> <p>11 they live?</p> <p>12 A Medina.</p> <p>13 Q And that address?</p> <p>14 A 1492 Hunter.</p> <p>15 Q Is that where Tamitha lives?</p> <p>16 A Yes.</p> <p>17 Q And your children?</p> <p>18 A Yes.</p> <p>19 Q Okay. Are you separated?</p> <p>20 A Yes.</p> <p>21 Q Okay. On Schedule D, sheet four of seven, if you</p> <p>22 want to look at that, you list Lake Bank of Two</p> <p>23 Harbors as a secured creditor listing three</p> <p>24 Silver Lake condominiums. Are these the Two</p> <p>25 Harbors properties?</p>
Page 99	Page 101
<p>1 Marine.</p> <p>2 Q Do you have any pets, any animals?</p> <p>3 A Yes.</p> <p>4 Q What are they?</p> <p>5 A German Shepards.</p> <p>6 Q Were these the same animals that were talked</p> <p>7 about in the Forbes magazine article of December</p> <p>8 of '07?</p> <p>9 A I don't recall the article.</p> <p>10 Q Are these a special kind of dog?</p> <p>11 MR. MOHRMAN: What do you mean by</p> <p>12 special?</p> <p>13 THE TRUSTEE: How much did you pay for</p> <p>14 those dogs, Mr. Hecker?</p> <p>15 THE DEBTOR: There's two dogs.</p> <p>16 THE TRUSTEE: Okay.</p> <p>17 THE DEBTOR: And they're primarily</p> <p>18 security dogs for the family.</p> <p>19 THE TRUSTEE: How much did you pay for</p> <p>20 them?</p> <p>21 THE DEBTOR: 30,000 apiece.</p> <p>22 THE TRUSTEE: Okay. I don't see them</p> <p>23 in the schedules. Is there a reason for that?</p> <p>24 THE DEBTOR: They're family pets. My</p> <p>25 wife claimed that they're hers and the</p>	<p>1 A Yes.</p> <p>2 Q Can you explain -- Well, first of all, are those</p> <p>3 Two Harbor properties titled in your name or one</p> <p>4 of your companies?</p> <p>5 MR. CUTLER: Well, if you look at</p> <p>6 Schedule A, you can determine if they're listed</p> <p>7 as being owned by Mr. Hecker. And I don't</p> <p>8 believe they're reflected on Schedule A, so I</p> <p>9 believe the real estate records will reflect that</p> <p>10 they're owned by a company that he directly or</p> <p>11 indirectly owns. The best evidence on that would</p> <p>12 be to check the real estate records.</p> <p>13 MR. CLIFTON: Right, I realize that.</p> <p>14 BY MR. CLIFTON:</p> <p>15 Q So the mortgages listed here, do you know if</p> <p>16 those are mortgages either in your name or your</p> <p>17 personal guarantee or in one of your companies?</p> <p>18 A Well, I personally guaranteed them.</p> <p>19 Q I was a little confused by this statement after</p> <p>20 three Silver Lake condominiums. Security</p> <p>21 interest asserted is half interest in household</p> <p>22 goods. What do you mean there? Are we talking</p> <p>23 about real property and personal property?</p> <p>24 MR. CUTLER: Maybe I can address that.</p> <p>25 If you read the mortgages, the mortgage contains</p>

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<p>1 a grant of any personal property that's located</p> <p>2 on the premises in favor of the bank. We believe</p> <p>3 that the bank failed to file a UCC-1 financing</p> <p>4 statement to perfect that. That's a legal issue.</p> <p>5 MR. CLIFTON: So they were trying to</p> <p>6 secure all personal property located at these</p> <p>7 condominiums?</p> <p>8 MR. CUTLER: The mortgage is a</p> <p>9 combination mortgage and grant of a security</p> <p>10 interest in personal property located at the</p> <p>11 premises.</p> <p>12 MR. CLIFTON: Okay.</p> <p>13 MR. CUTLER: Kind of a standard form</p> <p>14 document in Minnesota.</p> <p>15 MR. CLIFTON: But you don't think they</p> <p>16 perfected the UCC filing?</p> <p>17 MR. CUTLER: That's correct. We</p> <p>18 believe they have not filed a UCC statement.</p> <p>19 MR. CLIFTON: Okay.</p> <p>20 THE TRUSTEE: Mr. Clifton, when did</p> <p>21 the -- I understand, and I get this from the</p> <p>22 papers, I guess, but I understand that the IRS</p> <p>23 filed a lien.</p> <p>24 MR. CLIFTON: Yeah.</p> <p>25 THE TRUSTEE: When was that?</p>	<p>1 Q And was that from a different location?</p> <p>2 A Yes, from a different location.</p> <p>3 Q And what was that location?</p> <p>4 MR. CUTLER: Was that a prior home that</p> <p>5 you sold?</p> <p>6 THE DEBTOR: It was a prior home,</p> <p>7 Gainey Ranch.</p> <p>8 MR. CUTLER: The street address was on</p> <p>9 Gainey Ranch?</p> <p>10 THE DEBTOR: Gainey Ranch, yes.</p> <p>11 BY MR. CLIFTON:</p> <p>12 Q And when was that sold?</p> <p>13 A Sometime in '08, early '08.</p> <p>14 Q So personal property that was brought back to</p> <p>15 Minnesota was from that location?</p> <p>16 A Yes.</p> <p>17 Q Gainey Ranch?</p> <p>18 A Yes.</p> <p>19 Q Okay. So is there still personal property at</p> <p>20 this Camel Back address?</p> <p>21 MR. CUTLER: Well, the schedules</p> <p>22 reflect that there is. I don't understand your</p> <p>23 question.</p> <p>24 BY MR. CLIFTON:</p> <p>25 Q Well, I'm just clarifying that it is still</p>
Page 103	Page 105
<p>1 MR. CLIFTON: Well, we have several</p> <p>2 liens in different locations.</p> <p>3 THE TRUSTEE: Okay.</p> <p>4 THE TRUSTEE: And I don't need specific</p> <p>5 dates now. If you could just --</p> <p>6 MR. CLIFTON: No, I've got them here.</p> <p>7 THE TRUSTEE: Okay.</p> <p>8 MR. CLIFTON: The first one was filed</p> <p>9 April 17th of this year in Hennepin County; the</p> <p>10 next one was on May 8th in Washington County; the</p> <p>11 same date in Crow Wing County; May 11th in</p> <p>12 Maricopa County, Arizona; and -- Well, that's</p> <p>13 it.</p> <p>14 THE TRUSTEE: Okay. You can go ahead.</p> <p>15 BY MR. CLIFTON:</p> <p>16 Q The property at 7175 East Camel Back Road,</p> <p>17 Scottsdale, Arizona, you listed in your</p> <p>18 Schedule B, personal property at that location,</p> <p>19 not itemizing what it was or what its value was.</p> <p>20 Was that property that earlier was stated had</p> <p>21 been all transferred back here?</p> <p>22 A No, it's not. I don't believe so.</p> <p>23 Q Well, is there property in Arizona that was</p> <p>24 transferred back here, is my understanding?</p> <p>25 A Yes.</p>	<p>1 there. And can you be more specific --</p> <p>2 MR. CUTLER: There's no testimony that</p> <p>3 it's gone anywhere.</p> <p>4 BY MR. CLIFTON:</p> <p>5 Q Can you specify what property is there and what</p> <p>6 value it may have, or is that information that</p> <p>7 you have turned over to Mr. Seaver?</p> <p>8 THE TRUSTEE: On the Camel Back</p> <p>9 property, Mr. Hecker, it says interest in an</p> <p>10 unknown portion of household goods. What does</p> <p>11 that mean; why is it unknown?</p> <p>12 THE DEBTOR: The ownership is -- half</p> <p>13 interest is owned by another party.</p> <p>14 THE TRUSTEE: Who?</p> <p>15 THE DEBTOR: Richard and Brent Olson.</p> <p>16 THE TRUSTEE: Are they connected with</p> <p>17 Royal Jewelers?</p> <p>18 THE DEBTOR: Yes, they are.</p> <p>19 THE TRUSTEE: Do they own Royal</p> <p>20 Jewelers?</p> <p>21 THE DEBTOR: I believe they have an</p> <p>22 interest.</p> <p>23 THE TRUSTEE: Okay. So did they</p> <p>24 purchase some of the furniture in there?</p> <p>25 THE DEBTOR: We bought the model</p>



<p style="text-align: right;">Page 106</p> <p>1 furnished.</p> <p>2 THE TRUSTEE: Okay. So would it be</p> <p>3 your view that -- Have you folks equally split</p> <p>4 payments for this since the purchase?</p> <p>5 THE DEBTOR: I'm not sure I own it</p> <p>6 personally or an LLC.</p> <p>7 THE TRUSTEE: And I'm not really asking</p> <p>8 you that.</p> <p>9 THE DEBTOR: Okay.</p> <p>10 THE TRUSTEE: Well, since the purchase</p> <p>11 have payments have been split between the Olsons</p> <p>12 and you or the business entity?</p> <p>13 THE DEBTOR: The original intention was</p> <p>14 that. We haven't paid our share for about four</p> <p>15 months.</p> <p>16 THE TRUSTEE: Okay. Up to that time</p> <p>17 did the original intention prevail?</p> <p>18 THE DEBTOR: Yes.</p> <p>19 THE TRUSTEE: Okay. All right. What</p> <p>20 do you think the total value of those household</p> <p>21 goods is? I'm not asking about the allocation</p> <p>22 between the parties now. I'm just looking for a</p> <p>23 rough idea of the value.</p> <p>24 THE DEBTOR: Well, we paid, I think,</p> <p>25 two million -- two or four for the unit, and to</p>	<p style="text-align: right;">Page 108</p> <p>1 A Yes.</p> <p>2 Q So your testimony is that you have a half</p> <p>3 interest in that property or one of your</p> <p>4 companies has a half interest in that property,</p> <p>5 the real property --</p> <p>6 A Yes.</p> <p>7 Q -- the real property, the real estate?</p> <p>8 MR. CLIFTON: I'm switching gears.</p> <p>9 MR. CUTLER: Let's just stop a minute.</p> <p>10 You're asking multiple questions, so he needs a</p> <p>11 chance to be able to respond before you go into</p> <p>12 the next one.</p> <p>13 BY MR. CLIFTON:</p> <p>14 Q Okay. I'm asking about the real property at</p> <p>15 Camel Back Road. Who owns the real property?</p> <p>16 A Same people in all of the real estate.</p> <p>17 Q No. I'm asking about the real estate. Who owns</p> <p>18 the real estate? You said Royal Jewelers?</p> <p>19 A No. I said Richard and Brent Olson.</p> <p>20 Q Okay. And yourself individually?</p> <p>21 MR. CUTLER: Well, Mr. Clifton, I think</p> <p>22 what we don't know -- what Mr. Hecker doesn't</p> <p>23 know is whether it's held by him personally or in</p> <p>24 a corporation that he owns directly or</p> <p>25 indirectly.</p>
<p style="text-align: right;">Page 107</p> <p>1 bring in a million eight right now. So I don't</p> <p>2 know what the value is.</p> <p>3 THE TRUSTEE: Was there an allocation</p> <p>4 for personal property and real estate when you</p> <p>5 bought the unit?</p> <p>6 THE DEBTOR: No.</p> <p>7 THE TRUSTEE: All right. The personal</p> <p>8 property, though, that's really what I'm asking</p> <p>9 about here.</p> <p>10 THE DEBTOR: I --</p> <p>11 THE TRUSTEE: Just don't know?</p> <p>12 THE DEBTOR: -- don't know.</p> <p>13 THE TRUSTEE: Okay. Go ahead,</p> <p>14 Mr. Clifton.</p> <p>15 BY MR. CLIFTON:</p> <p>16 Q When were you last at that property?</p> <p>17 A I believe 60 days ago.</p> <p>18 Q So you should have a good idea of what's there</p> <p>19 for personal property?</p> <p>20 MR. CUTLER: Is that a question or a</p> <p>21 statement? If you want to ask him, does he have</p> <p>22 an --</p> <p>23 BY MR. CLIFTON:</p> <p>24 Q Do you have an idea of what's in that property</p> <p>25 from your visit there 60 days ago?</p>	<p style="text-align: right;">Page 109</p> <p>1 MR. CLIFTON: That's my question.</p> <p>2 MR. CUTLER: Mr. Hecker, you and/or you</p> <p>3 and your wife have a 50 percent ownership</p> <p>4 interest in that condo?</p> <p>5 THE DEBTOR: Yes.</p> <p>6 MR. CUTLER: And the other 50 percent</p> <p>7 ownership interest is --</p> <p>8 THE DEBTOR: Yes.</p> <p>9 MR. CUTLER: -- the Olsons? And is it</p> <p>10 held directly by the Olsons or is it held in the</p> <p>11 corporation?</p> <p>12 THE DEBTOR: I'm not sure.</p> <p>13 MR. CUTLER: If we researched the real</p> <p>14 estate records, would it be reflected there?</p> <p>15 THE DEBTOR: Yes, it would.</p> <p>16 BY MR. CLIFTON:</p> <p>17 Q Okay. To clarify what you just asked him, I</p> <p>18 think your question to him was whether him and</p> <p>19 his wife owned --</p> <p>20 MR. CUTLER: I said and/or his wife, I</p> <p>21 think.</p> <p>22 MR. CLIFTON: Individually.</p> <p>23 MR. CUTLER: What we're trying to</p> <p>24 determine, Mr. Hecker, is whether you own that</p> <p>25 condominium -- you have a personal interest in</p>

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<p>1 the condominium or whether it is owned in an 2 LLC. 3 THE DEBTOR: I don't know. 4 BY MR. CLIFTON: 5 Q Okay. The Los Cabos property, I think we 6 established that was owned by a Jacob Holdings 7 entity? 8 THE TRUSTEE: I think we established 9 it's titled in the name of Jacob Holdings. 10 BY MR. CLIFTON: 11 Q Right, okay. When were you last at that 12 property? 13 A February or March. 14 Q Okay. And was there personal property located 15 there at that time? 16 A Yes. 17 Q And you could provide an idea of what that 18 property is? 19 A Yes. 20 THE TRUSTEE: Mr. Hecker, what do you 21 think that real property in Cabos would sell 22 for? 23 THE DEBTOR: Well, it's ten years old. 24 THE TRUSTEE: Yeah. 25 THE DEBTOR: I think we have on the</p>	<p>1 THE TRUSTEE: Okay. Go ahead, 2 Mr. Clifton. 3 BY MR. CLIFTON: 4 Q You listed two IRA accounts with balances as of 5 the end of December, and then there's a statement 6 in your filings that there was a liquidation like 7 April 30th of '09, I think on Schedule E, page 2? 8 MR. CUTLER: Schedule E? 9 MR. CLIFTON: I think that's where I 10 picked it up. Yeah. Well, it was listed -- You 11 listed it on Schedule E, page 2 of 4. 12 MR. CUTLER: There's a withdrawal 13 liability amount listed. 14 MR. CLIFTON: Right. 15 MR. CUTLER: Is that what you're 16 referring to? 17 BY MR. CLIFTON: 18 Q Right. So there must have been a withdrawal on 19 April 30th of this year? 20 A The plan was terminated. 21 Q We're talking about your IRA accounts; is that 22 right? 23 MR. CUTLER: No. Actually, what you're 24 referring to refers to a 401(k) plan. 25 MR. CLIFTON: Not the IRAs?</p>
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<p>1 schedule a number. I'm not sure. 2 THE TRUSTEE: I'm just asking you, 3 though, what you think. 4 THE DEBTOR: Five thousand or less. 5 THE TRUSTEE: Oh, I'm asking about the 6 real property, though. 7 THE DEBTOR: Somewhere between a 8 million and a million two. 9 THE TRUSTEE: Okay. Are there any 10 other units similar to that on the market down 11 there? 12 THE DEBTOR: Several. 13 THE TRUSTEE: Okay. And what are they 14 asking for those? 15 THE DEBTOR: Different units bring 16 different prices. 17 THE TRUSTEE: Right. I'm looking for 18 one similar to the one that you have. Are there 19 any of those on the market right now? 20 THE DEBTOR: There's no first floor 21 with the driveway and the parking lot in front of 22 it, no. 23 THE TRUSTEE: Okay. There are some the 24 same size, but not the same level? 25 THE DEBTOR: Yeah, the ocean view.</p>	<p>1 MR. CUTLER: On Schedule E. 2 MR. CLIFTON: Not the IRAs? 3 MR. CUTLER: That's a question to you, 4 I guess. Does this schedule -- Review this. 5 Does this refer to the 401(k) plan or to your 6 IRAs that are scheduled on Schedule B; is that -- 7 THE WITNESS: I don't know. 8 BY MR. CLIFTON: 9 Q So your IRA plans, you had two of them listed. 10 Have you liquidated any funds from those accounts 11 in 2009? 12 A I don't believe so. 13 Q Okay. You listed investment accounts of some 14 nature with Schmidt Barney, JP Morgan, UBS 15 Financial Services, Stifel Nicolaus and Citi 16 Smith Barney. Do you have any transactions with 17 any of those accounts since January of this year, 18 January 1st? 19 MR. CUTLER: Other than what's 20 reflected in the schedules? 21 MR. CLIFTON: Yeah. 22 THE DEBTOR: No, I don't think so. 23 BY MR. CLIFTON: 24 Q Okay. On the SOFA, Question 6 -- 25 THE TRUSTEE: You're referring to the</p>

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<p>1 Statement of Financial Affairs, right?</p> <p>2 MR. CLIFTON: Yes.</p> <p>3 THE TRUSTEE: Okay.</p> <p>4 BY MR. CLIFTON:</p> <p>5 Q And maybe we already talked about this. What</p> <p>6 real property, specifically located, what are we</p> <p>7 talking about with this statement, deeds in lieu</p> <p>8 and voluntary surrender agreement?</p> <p>9 A 1492 Hunter Drive in Medina.</p> <p>10 Q That's the only property we're talking about</p> <p>11 there?</p> <p>12 A Oh, and Jacob Holdings of Aspen.</p> <p>13 Q And that real property is located where, under</p> <p>14 Jacob Holdings of Aspen?</p> <p>15 A Aspen.</p> <p>16 Q Is that a condominium or town house?</p> <p>17 A Town house.</p> <p>18 Q So if I can understand what this statement says,</p> <p>19 you've surrendered those properties to TCF?</p> <p>20 A The Medina property had a TCF first mortgage for</p> <p>21 five million and a second mortgage with US Bank</p> <p>22 for 12 million -- or seven million. And TCF took</p> <p>23 it back for five million, and US Bank didn't</p> <p>24 exercise their option.</p> <p>25 Q On the Hunter property?</p>	<p>1 A I was personally making the payments of an LLC</p> <p>2 house that got repossessed that was owned by a</p> <p>3 partnership.</p> <p>4 Q What was the partnership?</p> <p>5 THE TRUSTEE: Where was the home,</p> <p>6 Mr. Hecker?</p> <p>7 THE DEBTOR: It was by Naples.</p> <p>8 THE TRUSTEE: Do you recall the</p> <p>9 partnership?</p> <p>10 THE DEBTOR: The partner was, I</p> <p>11 believe, Jeff Holmers. It was an LLC, and I'm</p> <p>12 not sure what the name of the company was.</p> <p>13 THE TRUSTEE: How do you spell that</p> <p>14 last name?</p> <p>15 THE DEBTOR: H-O-L-M-E-R-S. We can get</p> <p>16 that information.</p> <p>17 BY MR. CLIFTON:</p> <p>18 Q Is this one of the entities listed amongst your</p> <p>19 250 or whatever that you're involved in?</p> <p>20 MR. CUTLER: Do you want to review the</p> <p>21 schedule and see if it's listed there?</p> <p>22 THE DEBTOR: Yeah, let's read the</p> <p>23 schedule.</p> <p>24 MR. CUTLER: It's going to take us</p> <p>25 awhile.</p>
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<p>1 A Yes. On the Aspen property they had a</p> <p>2 \$10 million mortgage, and TCF took it back with</p> <p>3 an appraisal of eight million.</p> <p>4 Q Okay. I think we established that CM Rowan and</p> <p>5 Christi M. Rowan are the same person?</p> <p>6 A Yes.</p> <p>7 Q And in your list of transfers of property, there</p> <p>8 was two entries to her, one for 65,000 and one</p> <p>9 for 35,000.</p> <p>10 A They weren't all at one time.</p> <p>11 Q But they are to one person?</p> <p>12 A Yes.</p> <p>13 Q Okay. What is French Lake Stables?</p> <p>14 A Are you referring to a check register?</p> <p>15 Q Yeah.</p> <p>16 A And how much is that for?</p> <p>17 Q \$360.</p> <p>18 A I'm not sure whether the children went riding</p> <p>19 there. I have no idea.</p> <p>20 Q Do you own a horse?</p> <p>21 A No.</p> <p>22 Q Any interest in a horse?</p> <p>23 A No.</p> <p>24 Q Why would you have a payment to Florida Power and</p> <p>25 Light?</p>	<p>1 BY MR. CLIFTON:</p> <p>2 Q Could I ask a related question while you're</p> <p>3 looking?</p> <p>4 MR. MOHRMAN: Well, why don't you let</p> <p>5 them look.</p> <p>6 MR. CUTLER: Do you want him to look or</p> <p>7 do you want him to answer the questions?</p> <p>8 THE TRUSTEE: Do you know who it is,</p> <p>9 Mr. Dove; do you know who it is, what company it</p> <p>10 is?</p> <p>11 MR. DOVE: Most likely it would have</p> <p>12 been HHR of Copper Oaks, LLC.</p> <p>13 THE TRUSTEE: Does that sound right,</p> <p>14 Mr. Hecker?</p> <p>15 THE DEBTOR: Yes.</p> <p>16 THE TRUSTEE: That was Erik Dove.</p> <p>17 THE TRUSTEE: Mr. Hecker, other than</p> <p>18 these trips to Mexico, have you traveled outside</p> <p>19 the country in the last two years?</p> <p>20 THE DEBTOR: Canada.</p> <p>21 THE TRUSTEE: Okay. Other than Canada</p> <p>22 and Mexico, have you traveled outside the country</p> <p>23 in the last two years?</p> <p>24 THE WITNESS: Yes.</p> <p>25 THE TRUSTEE: Where?</p>

<p style="text-align: right;">Page 118</p> <p>1 THE DEBTOR: To Germany.</p> <p>2 THE TRUSTEE: Okay. And when was</p> <p>3 that?</p> <p>4 THE DEBTOR: Maybe June and July of</p> <p>5 '08.</p> <p>6 THE TRUSTEE: Okay. Go ahead,</p> <p>7 Mr. Clifton.</p> <p>8 MR. CUTLER: Can I ask a follow-up</p> <p>9 question?</p> <p>10 THE TRUSTEE: Sure.</p> <p>11 MR. CUTLER: Was that for business for</p> <p>12 Advantage?</p> <p>13 THE DEBTOR: Yes, it was. It was for</p> <p>14 the sale of Advantage.</p> <p>15 MR. CUTLER: And that was to speak to a</p> <p>16 potential buyer --</p> <p>17 THE DEBTOR: Yes --</p> <p>18 MR. CUTLER: -- of the Advantage</p> <p>19 Rent-A-Car --</p> <p>20 THE DEBTOR: -- Erich Sixt's</p> <p>21 Rent-A-Car.</p> <p>22 MR. CUTLER: Did you conduct any</p> <p>23 personal business while you were in Germany?</p> <p>24 THE DEBTOR: We flew over -- We left</p> <p>25 here at five o'clock and got back at ten o'clock</p>	<p style="text-align: right;">Page 120</p> <p>1 check to Lee County Treasurer. Would that be for</p> <p>2 that property or something else?</p> <p>3 A I would be guessing, but I presume it would be</p> <p>4 that property.</p> <p>5 Q Is Naples in Lee County?</p> <p>6 A I have no idea.</p> <p>7 Q What's the Scottsdale Waterfront Association?</p> <p>8 A It's the association that operates the building</p> <p>9 where the Camel Back property is.</p> <p>10 Q Does that property have access to a body of</p> <p>11 water?</p> <p>12 A There's a river next to it, a man-made runoff</p> <p>13 kind of deal.</p> <p>14 Q Okay. Do you have a boat down there?</p> <p>15 A No. There's no boats available on the --</p> <p>16 There's -- It's a stream.</p> <p>17 Q Okay. Silver Cliff Properties, are those Two</p> <p>18 Harbors?</p> <p>19 A Yes.</p> <p>20 Q What's the Lafayette Club?</p> <p>21 A It's a social membership at Lafayette. It's a --</p> <p>22 In Minnetonka.</p> <p>23 THE TRUSTEE: Is there an initiation</p> <p>24 fee for that?</p> <p>25 THE DEBTOR: I believe, Mr. Seaver,</p>
<p style="text-align: right;">Page 119</p> <p>1 the next night, there and back two times.</p> <p>2 MR. CUTLER: So you didn't conduct any</p> <p>3 personal business while you were in Germany?</p> <p>4 THE DEBTOR: None.</p> <p>5 BY MR. CLIFTON:</p> <p>6 Q Do you belong to the Wayzata Country Club?</p> <p>7 A Yes.</p> <p>8 Q And what's a membership there cost?</p> <p>9 A I have no idea. I've owned it since 1978.</p> <p>10 THE TRUSTEE: Is that --</p> <p>11 THE DEBTOR: It costs \$1,000 a month.</p> <p>12 THE TRUSTEE: Is that a transferable</p> <p>13 membership?</p> <p>14 THE DEBTOR: I believe it has the same</p> <p>15 kind of limitations that Spring Hill has.</p> <p>16 THE TRUSTEE: What's the initiation fee</p> <p>17 there now; do you know?</p> <p>18 THE DEBTOR: I got in in 1978 for</p> <p>19 20,000. I believe that's what they'd buy it back</p> <p>20 for if you got through the waiting list.</p> <p>21 THE TRUSTEE: Okay.</p> <p>22 BY MR. CLIFTON:</p> <p>23 Q The question that I was going to ask while you</p> <p>24 were looking up that Florida Power and Light</p> <p>25 Partnership, Naples is in Lee County? You have a</p>	<p style="text-align: right;">Page 121</p> <p>1 when I got in five or six years ago, it was 2,500</p> <p>2 or something nominal.</p> <p>3 THE TRUSTEE: Okay.</p> <p>4 MR. CLIFTON: Was your testimony that</p> <p>5 you provided additional bank account records to</p> <p>6 Mr. Seaver.</p> <p>7 MR. CUTLER: That wasn't my testimony.</p> <p>8 I'm not here to testify.</p> <p>9 BY MR. CLIFTON:</p> <p>10 Q Mr. Hecker, did you provide additional bank</p> <p>11 account --</p> <p>12 MR. CUTLER: What I said on the record,</p> <p>13 Mr. Clifton, was that we had provided the Trustee</p> <p>14 with records that showed what the account</p> <p>15 balances were on the date of filing. And in</p> <p>16 connection with gathering that information, there</p> <p>17 were some additional accounts that weren't on</p> <p>18 Schedule B.</p> <p>19 MR. CUTLER: And are those being</p> <p>20 amended?</p> <p>21 MR. CUTLER: We've given that</p> <p>22 information to Mr. Seaver.</p> <p>23 MR. CLIFTON: Are the schedules going</p> <p>24 to be amended to reflect those?</p> <p>25 MR. CUTLER: You're asking me?</p>

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<p>1 MR. CLIFTON: Well, yeah. I guess that</p> <p>2 would be your duty, wouldn't it, to amend the</p> <p>3 schedules?</p> <p>4 MR. CUTLER: Well --</p> <p>5 MR. CLIFTON: Am I wrong? I mean --</p> <p>6 THE TRUSTEE: Are you going to -- If</p> <p>7 there are errors here, you're going to amend --</p> <p>8 MR. CUTLER: We will amend the</p> <p>9 schedules to correct any errors or omissions that</p> <p>10 have been discovered here today.</p> <p>11 MR. CLIFTON: The point is, how are</p> <p>12 other creditors to know that there's been changes</p> <p>13 in what was originally filed if you don't amend</p> <p>14 them?</p> <p>15 MR. CUTLER: I don't have a dispute</p> <p>16 with you, sir, about the substance, but you're</p> <p>17 putting the burden on me. I'm an attorney here</p> <p>18 representing Mr. Hecker.</p> <p>19 MR. CLIFTON: Okay.</p> <p>20 THE TRUSTEE: Mr. Hecker, let me ask</p> <p>21 you a question here and interrupt Mr. Clifton a</p> <p>22 minute. Looking at the Statement of Financial</p> <p>23 Affairs, I see a payment to something called</p> <p>24 Ike's for \$42,451 in November of '08. What's</p> <p>25 that?</p>	<p>1 insurance.</p> <p>2 Q Okay. It's an insurance policy on your life or</p> <p>3 policies on your life?</p> <p>4 A Each one of them have a portion of a policy or a</p> <p>5 policy. It's a term on my life.</p> <p>6 Q Okay. And you pay that; is that what these</p> <p>7 checks are?</p> <p>8 A Yes.</p> <p>9 Q How much -- What's the amount of the policy?</p> <p>10 MR. CUTLER: You mean the death</p> <p>11 benefit?</p> <p>12 THE TRUSTEE: Yeah, that's what I mean.</p> <p>13 MR. CUTLER: I think there's several</p> <p>14 policies.</p> <p>15 THE DEBTOR: It's on the insurance</p> <p>16 schedules that I think we provided to you.</p> <p>17 MR. CUTLER: No. These are owned by</p> <p>18 the trust.</p> <p>19 THE DEBTOR: Oh, owned by the trust,</p> <p>20 okay.</p> <p>21 MR. CUTLER: Do you know what the face</p> <p>22 amount of the death benefit of the insurance is</p> <p>23 inside children's trusts?</p> <p>24 THE DEBTOR: No, I don't.</p> <p>25 BY THE TRUSTEE:</p>
Page 123	Page 125
<p>1 THE DEBTOR: It was a loan to Ike's</p> <p>2 Restaurant.</p> <p>3 THE TRUSTEE: Did it ever get paid</p> <p>4 back?</p> <p>5 THE DEBTOR: No. He's file bankruptcy.</p> <p>6 THE TRUSTEE: Okay. There's something</p> <p>7 -- a payment of 19,500 to something called</p> <p>8 Stardot, Inc., in October of '08. What's that?</p> <p>9 THE DEBTOR: It was a margin call on a</p> <p>10 portion of a company owned by ITR.</p> <p>11 THE TRUSTEE: Okay.</p> <p>12 THE DEBTOR: They closed the business</p> <p>13 down and we each had a margin call of 19,5.</p> <p>14 THE TRUSTEE: Mr. Clifton, back to</p> <p>15 you.</p> <p>16 MR. CLIFTON: I think I'm done.</p> <p>17 FURTHER EXAMINATION</p> <p>18 BY THE TRUSTEE:</p> <p>19 Q All right. I have a few more things,</p> <p>20 Mr. Hecker. There are a number of transfers here</p> <p>21 in the Statement of Financial Affairs to Bruce</p> <p>22 Parker, Trustee. And, in specific, I'm looking</p> <p>23 at, it looks like, October of '08, June of '08,</p> <p>24 August of '08. What are those?</p> <p>25 A Kids' trusts that have life insurance on me, term</p>	<p>1 Q Okay. What other assets are in those trusts?</p> <p>2 A That's all.</p> <p>3 Q Just the insurance?</p> <p>4 A I believe so, yes.</p> <p>5 THE TRUSTEE: Okay. Mr. Cutler, I</p> <p>6 realize you're not testifying here, but --</p> <p>7 MR. CUTLER: Thank you.</p> <p>8 THE TRUSTEE: -- I sent a letter, and</p> <p>9 then I'll address this --</p> <p>10 Are you done, Mr. Clifton, completely?</p> <p>11 MR. CLIFTON: I think so.</p> <p>12 THE TRUSTEE: And I'll address this to</p> <p>13 Mr. Hecker, too, but I had requested bank</p> <p>14 statements going back to June 1st of 2008. And I</p> <p>15 know that in your response to me, you indicated</p> <p>16 that, you know, some records had been seized.</p> <p>17 But today I have received from you the bank</p> <p>18 account statements covering the date of filing,</p> <p>19 which you're obligated and the debtor is</p> <p>20 obligated to produce. Has any attempt been made</p> <p>21 to get these other bank records that I've</p> <p>22 requested?</p> <p>23 So I'll direct it to you, Mr. Hecker, I</p> <p>24 guess.</p> <p>25 MR. CUTLER: I'm actually looking at</p>

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<p>1 Mr. Castlebomb. If I can confer with him.</p> <p>2 THE TRUSTEE: Sure. What did you find</p> <p>3 out?</p> <p>4 MR. CUTLER: Mr. Seaver, they are</p> <p>5 working on gathering information. We've been</p> <p>6 getting numerous requests from you almost on a</p> <p>7 daily basis, so we have to prioritize and triage</p> <p>8 a little bit, but they are working on gathering</p> <p>9 that information.</p> <p>10 THE TRUSTEE: Okay. And just so we are</p> <p>11 clear -- And I have been requesting a lot of</p> <p>12 information, both me and my attorneys have been,</p> <p>13 there's no doubt about that, but this was</p> <p>14 something I sent a letter out back on June 16.</p> <p>15 But I don't doubt that you're trying to get</p> <p>16 those. So as soon as you do, if you would send</p> <p>17 them out.</p> <p>18 MR. CUTLER: Yes. We've had numerous</p> <p>19 events that have happened since then, including</p> <p>20 on that date.</p> <p>21 THE TRUSTEE: I'm aware of that.</p> <p>22 Are you Mr. Prohovsky?</p> <p>23 MR. PROHOVSKY: Yes, I am.</p> <p>24 THE TRUSTEE: Mr. Prohovsky, you're not</p> <p>25 under oath here, of course, but have you paid the</p>	<p>1 Q Sure. Mr. Hecker, let me show you -- Well, let</p> <p>2 me ask you this: Do you recall in March of 2008</p> <p>3 purchasing \$47,000, roughly, of jewelry from</p> <p>4 Chanel in Las Vegas? It was a telephone</p> <p>5 purchase. Here, let me show you this.</p> <p>6 A Yeah, I guess, if that's what it says.</p> <p>7 Q And this was paid for with your American Express</p> <p>8 black card, right?</p> <p>9 A Yes.</p> <p>10 Q All right. Where did all of these items go; who</p> <p>11 has them?</p> <p>12 A There's a gift to -- I'm not sure.</p> <p>13 Q A gift to who?</p> <p>14 A I bought them as gifts to give away. I can find</p> <p>15 out.</p> <p>16 Q All right. Were they all -- And I won't go</p> <p>17 through each one, but there are seven different</p> <p>18 things on here.</p> <p>19 A If we can get a copy of that, we'll try and give</p> <p>20 you an answer.</p> <p>21 Q You don't recall now who you gifted these things</p> <p>22 to?</p> <p>23 A No.</p> <p>24 Q Would it have been one person?</p> <p>25 A It might have been several.</p>
Page 127	Page 129
<p>1 rent on that Cross Lake place?</p> <p>2 MR. PROHOVSKY: Have I paid?</p> <p>3 THE TRUSTEE: Yeah, the 24,000?</p> <p>4 MR. PROHOVSKY: I'm waiting to get a</p> <p>5 bill.</p> <p>6 THE TRUSTEE: So the answer would be</p> <p>7 no?</p> <p>8 MR. PROHOVSKY: They haven't sent it to</p> <p>9 me.</p> <p>10 THE TRUSTEE: Okay. Well, when you pay</p> <p>11 it, send it to Mr. Cutler to hold. I believe</p> <p>12 that's property of this bankruptcy estate.</p> <p>13 Okay?</p> <p>14 MR. PROHOVSKY: I will check with my</p> <p>15 attorney and see if he agrees. If he agrees,</p> <p>16 yes. If not, I'll do whatever --</p> <p>17 THE TRUSTEE: Sure. I'm just telling</p> <p>18 you if it goes elsewhere, I don't think that it</p> <p>19 should go elsewhere. But talk to your attorney,</p> <p>20 of course.</p> <p>21 MR. CUTLER: There's another party that</p> <p>22 I think will have an interest in that, which is</p> <p>23 TCF. They have an assignment of rents, I think,</p> <p>24 on that property.</p> <p>25 BY THE TRUSTEE:</p>	<p>1 Q Okay. Mr. Hecker, we talked a little bit about a</p> <p>2 property I think that your sister is living in --</p> <p>3 A Yes.</p> <p>4 Q -- do you recall that? What's your sister's</p> <p>5 name?</p> <p>6 A Liaini Jansen.</p> <p>7 Q How do you spell the first name?</p> <p>8 A L-I-A-I-N-I, J-A-N-S-E-N.</p> <p>9 Q Thank you. Are you a signatory on any bank</p> <p>10 account held in someone else's name?</p> <p>11 A No.</p> <p>12 Q Do you have access to moneys --</p> <p>13 MR. CUTLER: You mean other than the</p> <p>14 companies?</p> <p>15 BY THE TRUSTEE:</p> <p>16 Q Yeah, other than your companies.</p> <p>17 A No.</p> <p>18 Q And that's the way you were answering that,</p> <p>19 right?</p> <p>20 A Yes.</p> <p>21 Q I mean, we all know you're a signatory on the</p> <p>22 companies.</p> <p>23 A Yes.</p> <p>24 Q All right. Do you have access to moneys in</p> <p>25 anybody's account through use of ATM or</p>

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<p>1 otherwise?</p> <p>2 A No.</p> <p>3 Q Do you use any credit cards that are held in</p> <p>4 anybody else's name, other than the company --</p> <p>5 Well, let me just ask the question the way it</p> <p>6 was. Do you have use of credit cards that are</p> <p>7 held in anybody else's name?</p> <p>8 A I don't believe so.</p> <p>9 THE TRUSTEE: Okay. Mr. Cutler, I'm</p> <p>10 going to take a little break to check my notes.</p> <p>11 I don't think I have a whole lot more, but I</p> <p>12 think there were some items you wanted to</p> <p>13 clarify.</p> <p>14 MR. CUTLER: Do you want me --</p> <p>15 THE TRUSTEE: Go ahead and do it now,</p> <p>16 yeah.</p> <p>17 EXAMINATION</p> <p>18 BY MR. CUTLER:</p> <p>19 Q Mr. Hecker, generally with respect to the</p> <p>20 preparation of the petition and schedules, you</p> <p>21 were involved in gathering the information that's</p> <p>22 reflected in the schedules; is that correct?</p> <p>23 A Yes.</p> <p>24 Q Your companies have some remaining employees; is</p> <p>25 that correct?</p>	<p>1 living expenses?</p> <p>2 A Everything.</p> <p>3 Q And who specifically at your companies performed</p> <p>4 those duties for you?</p> <p>5 A Susan Miller.</p> <p>6 Q And were you involved in directing, for example,</p> <p>7 the payment of utilities at the various homes</p> <p>8 that you used?</p> <p>9 A No.</p> <p>10 Q When the utility bills were sent, where were they</p> <p>11 sent to? Did they come to 500 Ford Road?</p> <p>12 A They came to 500 Ford Road.</p> <p>13 Q And that's your business address?</p> <p>14 A Yes.</p> <p>15 Q And as far as you knew, Ms. Miller would process</p> <p>16 the payment of any of those living expenses?</p> <p>17 A That's correct.</p> <p>18 Q Is that true also of the payment of your personal</p> <p>19 credit cards?</p> <p>20 A That's correct.</p> <p>21 Q Property taxes associated with the properties?</p> <p>22 A That's correct.</p> <p>23 Q Payment of mortgages or other encumbrances on</p> <p>24 those assets; is that correct?</p> <p>25 A That's correct.</p>
Page 131	Page 133
<p>1 A Three.</p> <p>2 Q And were those employees involved in supplying</p> <p>3 the information that was used in preparation of</p> <p>4 the schedules?</p> <p>5 A Yes.</p> <p>6 Q And did they --</p> <p>7 A Not all of them. They were part of the team.</p> <p>8 Q Okay. Who specifically assisted you in gathering</p> <p>9 information for the schedules?</p> <p>10 A Susan Miller, Rich Hage, Greg Orthun, Danny</p> <p>11 Storm, Darwin Lund, Erik Dove. I'm not sure</p> <p>12 anymore.</p> <p>13 Q Do you believe the information that they gave you</p> <p>14 was accurate?</p> <p>15 A Yes.</p> <p>16 Q Do you have any reason to think that it was not</p> <p>17 accurate?</p> <p>18 A No.</p> <p>19 Q Is it possible that there were mistakes in the</p> <p>20 information they gave you, but you're not aware</p> <p>21 of those mistakes?</p> <p>22 A That's correct.</p> <p>23 Q With respect to your personal expenses prior to</p> <p>24 the filing of the bankruptcy case, did you have</p> <p>25 staff that took care of paying your personal</p>	<p>1 MR. CUTLER: That's all I have,</p> <p>2 Mr. Seaver.</p> <p>3 THE TRUSTEE: All right. I'm going to</p> <p>4 take a short break here just to check my notes</p> <p>5 and see if I have anything more. But is there</p> <p>6 anybody else here who has questions? I know we</p> <p>7 only had Mr. Clifton. Anybody else? Apparently</p> <p>8 not.</p> <p>9 FURTHER EXAMINATION</p> <p>10 BY THE TRUSTEE:</p> <p>11 Q Before we take a break, let me just show you</p> <p>12 something, Mr. Hecker. This is the insurance</p> <p>13 policy for personal property, which there were</p> <p>14 some -- there was some activity shortly before</p> <p>15 filing, including termination, as I understand</p> <p>16 it, of the jewelry coverage. But here's my</p> <p>17 question: You will see that there's a received</p> <p>18 date here of 6/5/09, \$5,000 credit as a payment</p> <p>19 on that policy. I'll tell you, I spoke with the</p> <p>20 insurance -- the person at your insurance</p> <p>21 company. My recollection is that he thought it</p> <p>22 was a wire transfer. Do you know how that 5,000</p> <p>23 was paid?</p> <p>24 A I have no idea.</p> <p>25 Q Okay. You didn't walk in and pay him \$5,000; is</p>

Page 134	Page 136
<p>1 that true?</p> <p>2 MR. MOHRMAN: In cash, you mean?</p> <p>3 BY THE TRUSTEE:</p> <p>4 Q Cash, check.</p> <p>5 A No.</p> <p>6 THE TRUSTEE: Okay. All right. Let's</p> <p>7 just take a ten-minute break here and we'll come</p> <p>8 back.</p> <p>9 (Break taken.)</p> <p>10 BY THE TRUSTEE:</p> <p>11 Q All right. We're back on the record here now.</p> <p>12 And you understand, Mr. Hecker, that you're still</p> <p>13 under oath, correct?</p> <p>14 A Yes.</p> <p>15 Q All right. Let me show you a printout that I got</p> <p>16 from the Christi's real estate properties for</p> <p>17 sale, luxury division. This is a listing for a</p> <p>18 residence at 3301 Las Ventanas. Is that the same</p> <p>19 complex your unit is in?</p> <p>20 A Yeah. That's a third floor unit.</p> <p>21 Q Okay.</p> <p>22 A It might be a penthouse.</p> <p>23 Q Same building, though, right?</p> <p>24 A Same building, but it might be a penthouse.</p> <p>25 Q A more expensive unit?</p>	<p>1 that I've requested and Mr. Hecker has agreed to</p> <p>2 produce, through you. And you're going to</p> <p>3 produce all those, right?</p> <p>4 MR. CUTLER: My client will produce</p> <p>5 those records, correct.</p> <p>6 THE TRUSTEE: And then you'll pass them</p> <p>7 on to me?</p> <p>8 MR. CUTLER: Yes.</p> <p>9 BY THE TRUSTEE:</p> <p>10 Q All right. Mr. Hecker, you have met with an</p> <p>11 agent of the estate, an auction agent named Fred</p> <p>12 Radde, right?</p> <p>13 A Yes.</p> <p>14 Q And you've shown him various property, right?</p> <p>15 A Yes.</p> <p>16 Q At one of his visits at Cross Lake, he indicated</p> <p>17 to me that he saw a car there, I thought he said</p> <p>18 Mazeratti, a black expensive car, at any rate.</p> <p>19 A There was a black Range Rover there, but there</p> <p>20 was no --</p> <p>21 Q But you don't recall there being a black</p> <p>22 expensive car at your Cross Lake property?</p> <p>23 A Never.</p> <p>24 Q Okay. And maybe I misunderstood him.</p> <p>25 And I asked you about a Bentley and a</p>
Page 135	Page 137
<p>1 A Absolutely.</p> <p>2 Q Okay. And, Mr. Hecker, I've spoken to</p> <p>3 Mr. Cutler, I've spoken with him both yesterday</p> <p>4 and today about this and probably Monday, as</p> <p>5 well, but the lawsuit that I commenced to get</p> <p>6 turnover of that jewelry because of my concern</p> <p>7 about that insurance, I understand, based on your</p> <p>8 testimony here today, that you've turned over to</p> <p>9 me every piece of jewelry, watch, those sorts of</p> <p>10 items, that you can locate; is that true?</p> <p>11 A That's correct.</p> <p>12 Q All right. And because that action was to force</p> <p>13 turnover of -- to get possession of those into my</p> <p>14 custody and it appears to me that you've done</p> <p>15 that with everything, we've withdrawn the motion</p> <p>16 that was scheduled for this afternoon and I'm</p> <p>17 going to have my attorneys withdraw the lawsuit,</p> <p>18 as well, because it was just for that limited</p> <p>19 purpose.</p> <p>20 THE TRUSTEE: And, Mr. Cutler, excuse</p> <p>21 me, you and I spoke about, there are various</p> <p>22 documents here that I have requested, including</p> <p>23 my initial letter where I'm requesting bank</p> <p>24 statements. And we've had a little discussion</p> <p>25 about that, and other things have come up here</p>	<p>1 Mazeratti, and you told me about both of those.</p> <p>2 Have you had in your possession in the last three</p> <p>3 or four months any other expensive cars, let me</p> <p>4 just say any cars that would have cost over a</p> <p>5 hundred thousand new?</p> <p>6 A Other than the Bentley we talked about?</p> <p>7 Q Yeah.</p> <p>8 A No.</p> <p>9 THE TRUSTEE: Okay. All right. One</p> <p>10 last chance, folks. Does anybody have any</p> <p>11 questions here? It doesn't appear so.</p> <p>12 So I am going to, subject to receiving</p> <p>13 those documents, Mr. Cutler, I'm going to</p> <p>14 conclude the Meeting of Creditors. That's all.</p> <p>15 Thank you. Thank you everyone for coming. Thank</p> <p>16 you, folks.</p> <p>17 (Whereupon, the proceedings were</p> <p>18 concluded at 12:55 p.m.)</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>



1 STATE OF MINNESOTA )

2

3

4 COUNTY OF HENNEPIN )

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7

8 REPORTER'S CERTIFICATE

9

10

I, Julie A. Rixe, do hereby certify

11

that the above and foregoing transcript, consisting of

12

the preceding 137 pages, is a correct transcript of

13

my stenographic notes and is a full, true and complete

14

transcript of the proceedings to the best of my

15

ability.

16

Dated July 20, 2009.

17

18

19

20

JULIE A. RIXE

21

Court Reporter

22

23

24

25

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

---

In re:

BKY No.: 09-50779

Dennis E. Hecker,

Chapter 7

Debtor.

---

Randall L. Seaver, Trustee,

Adv. Case No.: 09-5042

Plaintiff,

vs.

Jacob Holdings of Ventanas LLC,  
Jacob Properties of Minnesota LLC,  
Wells Fargo Bank, Cornerstone Bank,  
and Chrysler Financial Services Americas, LLC,

Defendants.

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**UNSWORN CERTIFICATE OF SERVICE**

I hereby certify that on October 16, 2009, I caused the following documents:

***Trustee's Response to Debtor's Motion for Stay of Adversary Proceeding and  
Affidavit of Matthew R. Burton***

to be filed electronically with the Clerk of Court through ECF, and that the above documents will be delivered by automatic e-mail notification pursuant to ECF and this constitutes service or notice pursuant to Local Rule 9006-1(a).

/e/ Stephanie Wood

Dated: October 16, 2009

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Stephanie Wood  
100 South Fifth Street, Suite 2500  
Minneapolis, MN 55402  
(612) 332-1030